



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

## AGENDA

### Planning and Zoning Commission Regular Meeting\*

Tuesday, July 3, 2018, at 5:30 P.M.

City Hall Meeting Room

201 E. Walnut

#### Call to Order

- ITEM 1:** Consider and take appropriate action regarding approval of the Planning and Zoning Commission and City Council Joint Workshop Meeting Minutes on June 18, 2018.
- ITEM 2:** Consider and take appropriate action regarding approval of the Planning and Zoning Commission Meeting Minutes on June 19, 2018.

#### Public Hearing Items:

- ITEM 3:** **RP2018-06** Commission to hear and take action to make a recommendation to City Council regarding Replat Application 2018-06—Mrs. Marsha Nieman's request to final plat Lot 9R, Block 15, Range F, Devereux Addition, being approximately 0.222 acres of land and a replat of part of Lots 8 and 9, Block 15, Range F, Devereux Addition, to the City of Decatur, Wise County Texas and more commonly referred to as 105 S. Lane St., Decatur, Texas. A complete legal description is found on the plat exhibit located in the Staff Report.
- ITEM 4:** **SUP2018-03** Commission to hear and take action to make a recommendation to City Council regarding Specific Use Permit Application 2018-03—Aaron Cole's request, on behalf of West Walnut Investments, LTD, for a Specific Use Permit to allow Multiple Family Dwellings as part of a Mixed Use Development in the C1-A, Decatur Square Business District on approximately 0.26 acres of land being legally described as all of Lots 4, 5, 6 and part of an alley, Block 5, C.J. Crabb's Addition, and more commonly referred to as 302 W. Walnut Street, Decatur Texas.
- ITEM 5:** **SI2018-04/ZC2018-02** Commission to hear and take action to make a recommendation to City Council regarding an ordinance amending Appendix "B," "Zoning" of the Code of Ordinances of the City of Decatur, Texas to classify a Birthing Center or Mid-Wife Facility as a new Use; adopt regulations relating to Article 5, "Zoning Districts" relative to the SF-2, Single-Family-2 Zoning District, C2, Thoroughfare Business District, the C-1, Restricted Business Zoning District, and the CO, Office Zoning District to regulate Birthing Centers or Mid-Wife Facilities, relating to Article 6, "Use Chart," Table 7 to allow Birthing Centers or Mid-Wife Facilities with a Specific Use Permit, providing amendments to Article 3, "Definitions" and other sections of Appendix "B," "Zoning" as related to and resulting from the foregoing amendments to the SF-2, Single Family-2 Zoning District, C2, Thoroughfare Business District, the C-1, Restricted Business Zoning District, and the CO, Office Zoning District.
- ITEM 6:** **SI2018-05** Commission to hear and take action to make a recommendation to City Council regarding an ordinance amending Appendix "B," "Zoning" of the Code of Ordinances of the City of Decatur, Texas to classify Bingo Halls for Charitable Purposes as a new Use; adopt regulations relating to Article 5, "Zoning Districts" relative to the SF-2, Single-Family-2 Zoning District, the C2, Thoroughfare Business

District, and the C-1, Restricted Business Zoning District to regulate Bingo Halls for Charitable Purposes, relating to Article 6, "Use Chart," Table 7 to allow Bingo Halls for Charitable Purposes with a Specific Use Permit, providing amendments to Article 3, "Definitions" and other sections of Appendix "B", "Zoning" as related to and resulting from the foregoing amendments to the SF-2, Single-Family-2 Zoning District, the C2, Thoroughfare Business District, and the C-1, Restricted Business Zoning District.

### **Non-Public Hearing Items:**

**ITEM 7:**      **RP2018-07** Commission to hear and take action to make recommendation to the City Council regarding Replat Application 2018-07—Mr. Aaron Cole's request, on behalf of West Walnut Investments, to final plat Lot 4R, Block 5, Crabb's Addition, being approximately 0.26 acres of land and a replat of part of Lots 3, 4, 5 and a portion of a 115' alley, Block 5, Crabb's Addition, to the City of Decatur, Wise County Texas and more commonly referred to as 302 W. Walnut St., Decatur, Texas. A complete legal description of the property is found on the plat exhibit located in the Staff Report.

**ITEM 8:**      New and/or future business items:  
a. August meeting currently has no Planning applications.

### **Adjournment**

Prepared and posted this the 29<sup>th</sup> day of June, 2018, in accordance with Chapter 551, Texas Government Code.

Dedra Denée Ragland, AICP  
Planning and Development Director

**The Joint City Council and P&Z Meeting Minutes from June 18, 2018  
are not available at this time. The Minutes will be on the next  
available meeting agenda.**

## MINUTES

A special called meeting of the City of Decatur Planning and Zoning Commission was held at 5:30 p.m., Tuesday, June 19, 2018, at City Hall with the following in attendance:

**MEMBERS PRESENT:**

Cecil LeMond, Vice-Chairman  
Curtis Creswell  
Terry Berube  
Eileen Standridge  
John Lanier  
Eddie Allen  
Will Klose

**MEMBERS ABSENT:**

William D. Edwards, Chairman

**OTHERS PRESENT:** Planning and Development Director Dedra Ragland, Public Works Director Greg Hall, Building Official Wayne Smith, GIS Analyst Ford McElroy, and Development Review Coordinator Cheryl Fuss, representing the staff; and James Wood, Audra Rhine, Jessie Branscum, Bobbie Branscum, Gary Cocanougher, Susan Cocanougher, representing the applicants. Joanne Woodruff, Richard Rowell, Sally Rieger, Cindy Cox, Jayanna Kelly Sharon Meyer, Dianne Smith, Steve Smith, and Chris ForbisPatrick Walters, Cheryl Walters, Chad Walters, Ron Volske, Buddy Miller, Beth McCurdy, Marissa Burger and Todd Burger, representing the public, and Brian Knox with Wise County Messenger.

**Vice-Chairman LeMond called the meeting to order at 5:30 p.m.**

**ITEM 1:** Accept Resignation of Chairman Davey Edwards and elect a new Chairman and if necessary, a new Vice-Chairman.

Planning Director Ragland explained to the Commissioners that she asked Chairman Edwards to stay through the end of his term in October; however, Chairman Edwards said he had other duties and responsibilities of a personal nature that will conflict with his ability to attend meetings. Planning Director Ragland also stated that if Vice-Chairman LeMond is interested in the Chairman position, his fellow Commissioners can elect Vice-Chairman LeMond as Chairman and another Commissioner will need to be elected as the Vice-Chairman.

**Commissioner Berube motioned to nominate Vice-Chairman LeMond as the Chairman. Commissioner Allen seconded the nomination. The motion passed 6-0.**

Chairman LeMond asked for a nomination for the open Vice-Chairman position.

**Commissioner Allen motioned to nominate Commissioner Creswell as the Vice-Chairman. Commissioner Standridge seconded the nomination. The motion passed 6-0.**

**ITEM 2:** Administer Statement of Appointed Official and Oath of Office to Will Klose.

**Development Review Coordinator Fuss administered Statement of Appointed Official and Oath of Office to Commissioner Klose.**

**ITEM 3:** Consider and take appropriate action regarding approval of the Planning and Zoning Commission and City Council Joint Workshop Meeting Minutes on April 30, 2018.

**Commissioner Berube made a motion to approve the April 30, 2018, Planning and Zoning Commission and City Council Joint Workshop Meeting Minutes. Commissioner Lanier seconded the motion. The motion passed 6-0.**

**ITEM 4:** Consider and take appropriate action regarding approval of the Planning and Zoning Commission Meeting Minutes on May 1, 2018.

**Commissioner Allen made a motion to approve the May 1, 2018, Planning and Zoning Commission Meeting Minutes. Commissioner Lanier seconded the motion. The motion passed 6-0.**

**Public Hearing Items: (Agenda Item 6 was moved ahead of Item 5 as there were several people to speak on Agenda Item 5)**

**ITEM 6:** **SUP2018-02** Commission to hear and consider and take action to make a recommendation to City Council regarding Specific Use Permit Application 2018-02—Gary and Susan Cocanougher's request for a Specific Use Permit to allow an Accessory Dwelling in a Single Family-2 (SF-2) Zoning District on approximately 15.54 acres of land being legally described as 402 Waggoner, Decatur, Texas. A complete legal description of the property can be obtained from the Planning and Development Services Department.

Planning Director Ragland presented the staff report. Sixteen (16) property were notified with no responses in favor of, neutral to or opposed. Planning Director Ragland talked with a concerned party and reassured them that there was only a small house being built. Staff recommended approval.

**Commissioner Berube made a motion to recommend approval of Special Use Permit Application 2018-02. Vice-Chairman Creswell seconded the motion. The motion passed 6-0.**

**ITEM 5:** **SUP2018-01** Commission to hear and consider and take action to make a recommendation to City Council regarding Specific Use Permit Application 2018-01—Fifty Fifty Properties, LLC's request, on behalf of South Martin Branch, LP, for a Specific Use Permit to allow a Daycare in a Thoroughfare Business (C-2) Zoning District in the South Martin Branch Planned Development (PD), on approximately 0.98 acres of land being legally proposed as Lot 37, Block F, South Martin Branch Addition, Phase 5, or more commonly referred to as 420 Martin Branch Rd., Decatur, Texas. A complete legal description of the property can be obtained from the Planning and Development Services Department.

Planning Director Ragland presented the staff report. She explained that this is an application that the Commission has seen before. The location is at the entry way to South Martin Branch Subdivision or Planned Development. The SUP is to permit a Daycare in a C-2, Thoroughfare Business Zoning District. Per our Zoning Regulations, even though it is inside a Planned Development, there were no changes to the underlying requirements for a daycare in the C-2 Thoroughfare Business Zoning District, so applicant is required to apply for a SUP. The previous case number was SUP2017-07 and following the City Council's first reading of the Ordinance, there was opposition that triggered a super majority vote by the City Council. The application was denied for lack of a super majority vote after the second ordinance reading. The applicant decided that it made sense to reapply for the SUP for two reasons:

1. The City has spoken to TXDOT requesting they consider reducing the speed limit on FM 730. That was one of the primary concerns of the area residents. The Mayor has submitted the letter to TXDOT; however, City has not received a response back.
2. The applicant spoke to the property owner that is in the ETJ to address his concerns. That property owner had the largest percentage of property within 200 feet of the proposed daycare, and is responsible for triggering the super majority vote by City Council. Staff's understanding is that the applicant met with the property owner and applicant agreed to provide buffering to the preference of the ETJ property owner. Applicant also amended their site plan to allow access from the daycare to the ETJ property owner's property.

Those were the primary reasons that the applicant decided to resubmit their application.

Since the Staff Report was written, a petition in opposition to the daycare has been signed. The ETJ property owner also signed the petition. As a result of this, opposition to this SUP application is 26.23%, which triggers a super majority vote by City Council. This information is provided to the Commissioners so that the Commission is aware of the surrounding neighbors concerns regarding the daycare. Staff also provided the Commissioners an opposition map of the neighbors who signed the petition. The bulk of the people signing the petition are not located within the 200' notification area and so their opposition is not included in the percentage of opposition calculation.

Staff included a partial list of uses permitted by right in the Thoroughfare Business (C-2) Zoning District. These uses can be constructed on the lot without any input from surrounding neighbors or review and approval by P&Z and City Council. The uses include: Hotel or Motel, Assisted Care or Living Facility, School, Elementary or Secondary, Electrical Substation, Utility Distribution or Transmission Lines, Water Treatment Plant, Amusement, Commercial, Outdoor, Bus Station or Terminal, Hauling Company, Parking Lot or Structure, Commercial, Automobile Accessories and Parts, Used Retail Sales, Convenience Store, Pawn Shop, Restaurant or Cafeteria, Tattoo or Body Piercing Studio and Heavy Machinery Sales and Service.

Zoning Districts in which licensed child care centers or daycares are permitted with a Specific Use Permit (SUP) include: SF-1, Single Family Residential; SF-2, Single Family Residential; TH, Townhouse; 2F, Two Family Residential; MF, Multiple-Family Residential; C-O, Office; C-1, Restricted Business; C-1A, Downtown Square; C-2, Thoroughfare Business; and PD, Planned Development. All Zoning Districts require a Specific Use Permit for a daycare.

The South Martin Branch Planned Development has always intended for the entry tracts to be developed commercial. A daycare is compatible with the existing and planned land uses allowed within the Planned Development. A daycare is not a detrimental land use to the properties adjacent to the Planned Development or to the City as a whole. The proposed daycare and site plan are in substantial compliance with the criteria for granting a SUP. Staff is not recommending any additional conditions be imposed for approval of the SUP.

Fifteen (15) property owners were notified. Staff has received seven (7) responses in favor, four (4) responses opposed, and no responses neutral to the request.

Planning Director Ragland stated that the Staff Report included a memo from the City Engineer regarding the traffic impact analysis that was conducted when the PD was first developed. It also contains information summarizing the speed study conducted by the Decatur Police Department approximately two months ago.

Commissioner Berube asked why schools are allowed by right and daycares require a Specific Use Permit. Planning Director Ragland stated she believes it is mainly because of the business hours for daycares, which are typically 6 a.m. to 6 p.m. They tend to be a little earlier and later than a regular school. Commissioner Berube stated that daycares have the same noise that schools do.

Commissioner Klose asked if the traffic study that was conducted took into account all the phases of the development. Planning Director Ragland said yes, the study did take all of that into account. Commissioner Klose asked Public Works Director Hall if the Traffic Engineer had included the commercial businesses of all the lots into the study. He asked, if Traffic Engineer is preparing a traffic study, would he take into account the worse case scenarios for build out? Public Works Director Hall said that he assumed they would; however, not being a Traffic Engineer, he doesn't want to state something that isn't true.

Public Works Director Hall stated that the Decatur Police Department's speed study conducted, indicates the average speed both northbound and southbound combined was 58 mph. The speed limit is 60 mph and the study showed that 85 percent of the traffic was below the allowed speed limit. With this finding, the average speed of the vehicles traveling in the Brookhollow Subdivision is 31 mph. The speed limit is posted at 30 mph. The average

speed of the vehicles traveling in and out of the South Martin Branch Addition is 27 mph. The average speeds are consistent with the posted speed limits.

Commissioner Klose stated the traffic study showed there would be 2,385 vehicles per day for the retail/commercial development portion of this subdivision. The traffic for a daycare of this size is only 476 vehicles per day; it isn't even a fifth of what the traffic study reports. Chairman LeMond stated that from the reports, the traffic shouldn't even be an issue. Commissioner Klose asked how many years a traffic study projects out. Planning Director Ragland said that they generally project to build out. Public Works Director Hall said that he thought this study is projecting build out in 10 years from date of study.

Planning Director Ragland informed the Commission that the applicant was in attendance and that there were people wishing to speak concerning this Agenda Item.

Commissioner Standridge asked the square footage of the building. Planning Director Ragland said that the applicant was available to answer specific questions regarding the daycare facility. She also told the Commission that the square footage could change as the plans have not been submitted for review.

*Applicant Jessie Branscum, 209 Valley Meadow Dr.,* addressed Commissioner Klose's question regarding the square footage stating that the building will be 6,034 sq. ft. Commissioner Klose asked about the site plan showing double arrow lanes. Applicant Branscum stated the lanes will allow one way traffic. There will be parking along the curb on the right and the second lane will allow incoming traffic to continue on to the parking lot.

Vice-Chairman Creswell asked if the applicant knew how many customers they would have from South Martin Branch. Applicant Branscum said that they did not know. Commissioner Standridge asked what the hours would be.

Applicant Branscum stated that the hours will be 6 a.m. to 6 p.m. Drop off will be from 6 a.m.– 9 a.m. which provides a three hour window to help with traffic concerns. Parents will be allowed to pick up at any time during the day. The age groups range from infants to 12 year olds.

Commissioner Standridge asked if there would be an after school program.

Applicant Branscum said yes, there are two vans which will help bring down the traffic.

Commissioner Berube stated that unlike schools which start and end at the same times, a daycare has staggered times for drop off and pick up, which will help traffic flow. Commissioner Allen stated that he had a daycare across the street from him; it was a benefit to be able to drop off and pick up at the last minute. Following up on another concern regarding the children being loud, Commissioner Allen asked if the children will be outside playing at the same time.

Applicant Branscum said that they would have a rotating schedule for outside playtime, roughly 25 percent will be outside at one time. Children will be out in the morning, inside during lunchtime and then back out in the afternoon. Also there will not be a lot of cars due to most parents bringing multiple children to daycares. There will not be 110 cars per day.

*Citizen Chris Forbis, 200 Brookhollow Dr.,* addressed the Commission. He has been a resident of Brookhollow for the last 30 years. He stated that the traffic study did not address all the traffic that cut through the Brookhollow Subdivision. That route is very narrow, about 16' wide. He voiced his concerns regarding traffic congestion at the daycare and said that the primary congestion will be first thing in the morning and late in the afternoon. He also noted that TxDOT could increase the speed limit instead of decreasing it as they have not made their decision yet. He stated that between the last time the applicant applied for the SUP until this time, nothing has changed and that the previous decision should be honored. He also stated that the daycare will have 16 employees and two vans and that they were only proposing 16 parking spaces.

*Citizen Sally Rieger, 2605 S. College Ave.,* addressed the Commission. She lives in Brookhollow and Chris has already addressed her concerns. Her husband was involved in the approval of the PD. He was concerned about there not being two means of ingress/egress. It is hard to get out on FM 730. The residents are concerned for the welfare of the children, their parents and the neighborhood.

*Citizen Joanne Woodruff, 2996 Timber Trail Dr.,* addressed the Commission. She lives in Brookhollow. Chris has eloquently addressed her concerns on concentrated traffic. Left turns are extremely difficult. Ms. Woodruff is concerned with people's safety. Turning left out of the daycare seems to be problematic. The applicant is jumping the gun before TxDOT makes their determination. She is also concerned about the driveway out of the daycare. People turning left into South Martin Branch, will have a blind spot. She thinks that having a daycare in South Martin Branch is a wonderful idea; however, she would just like to see it on another piece of property. She is concerned until TxDOT makes their decision.

*Citizen Sharon Meyer, 3036 Timber Trail Dr.,* addressed the Commission. She lives in South Martin Branch. She has a signed petition. The last time there were 80 names on the petition, this time, there are 95 names. There is only one entrance into the subdivision. There is also a new siren in the subdivision and it is her understanding that the siren can't be within so many feet of children. She believes that the City should wait on TxDOT. There are also older people in the neighborhood who moved there for the peace and quiet. There will be 1½ to 2 hours every day with children outside playing. There will be a lot of noise.

Staff recommended approval.

**Commissioner Berube made a motion to recommend approval of Specific Use Permit Application 2018-01. Commissioner Klose seconded the motion. The motion passed 6-0.**

**Non Public Hearing Items:**

**ITEM 7:** New and/or future business items:

- a. July meeting currently has five (5) application:
  - i. SUP2018-03 – Walnut Street Apartments Aaron Cole (Mixed Use Office/MF in C-1A)
  - ii. RP2018-06 Nieman Property (Residential Replat)
  - iii. RP2018-07 Aaron Cole (Commercial Replat)
  - iv. SI2018-04 Zoning Amendment to classify Birthing Center as a Use
  - v. SI2018-05 Zoning Amendment to classify Bingo Hall as a Use

**The meeting adjourned at 6:25 p.m.**

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Cecil LeMond, Chairman

ATTEST:

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Dedra Denée Ragland, Planning Director



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

Agenda Item 3

## STAFF REPORT

*July 3, 2018–Planning & Zoning Commission Meeting*

**TO:** Planning & Zoning Commissioners

**CASE:** RP2018-06

**FROM:** Dedra D. Ragland, AICP, Planning Director

**APPLICANT:** Marsha Nieman

**DATE:** May 24, 2018

**REQUEST:** Replat Application

### Case Notes:

Commission to hear and take public comment and take action to make a recommendation to City Council regarding Replat Application 2018-06—Mrs. Marsha Nieman's request to final plat Lot 9R, Block 15, Range F, Devereux Addition, being approximately 0.222 acres of land and a replat of part of Lots 8 and 9, Block 15, Range F, Devereux Addition, to the City of Decatur, Wise County Texas and more commonly referred to as 105 S. Lane St., Decatur, Texas. A complete legal description is included in the staff report.

### Legality:

This property can be legally platted in accordance with Section 212 of the *Texas Local Government Code*.

### Issues:

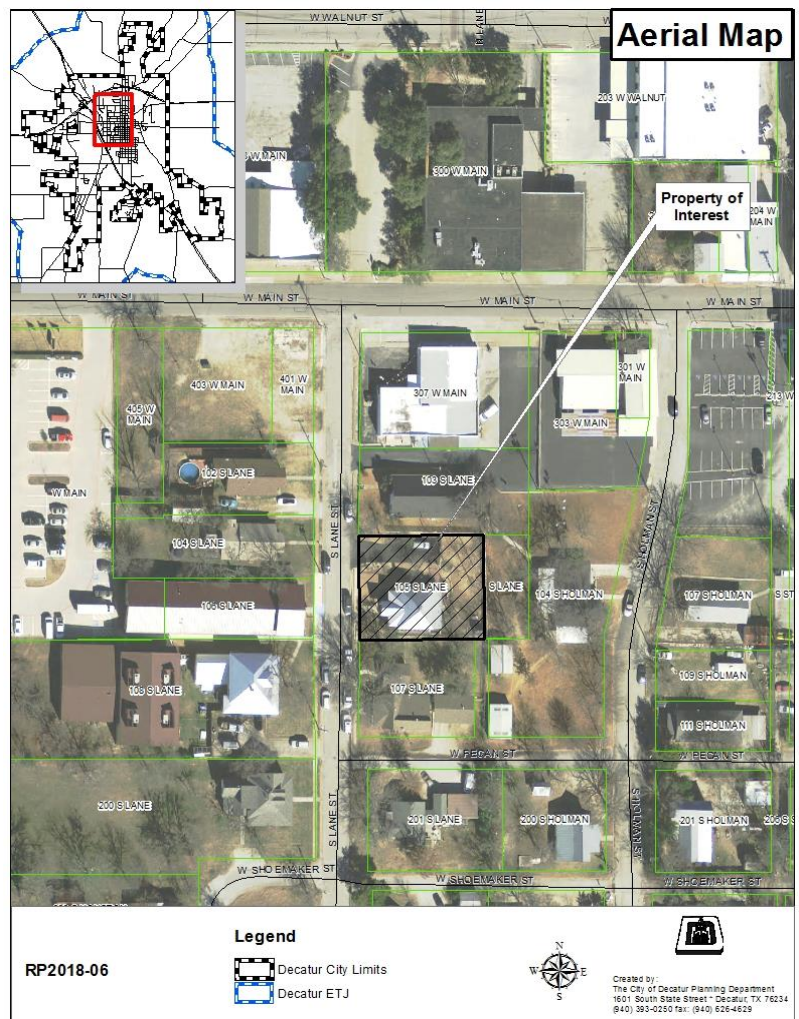
None.

### Recommendation:

The plat meets the minimum requirements of the City of Decatur's Zoning Ordinance, Subdivision Regulations and the Design Standards. Staff recommends approval.

### Attachments:

1. Replat Exhibit



## LOCATION MAP

ATTACHMENT 1  
Replat Exhibit



**DRAINAGE EASEMENT RESTRICTION**  
NO CONSTRUCTION, OR FILLING WITHOUT THE WRITTEN APPROVAL OF THE CITY OF DECATUR, SHALL BE ALLOWED WITHIN A DRAINAGE EASEMENT, AND THEN ONLY AFTER DETAILED ENGINEERING PLANS AND STUDIES SHOW THAT NO FLOODING WILL RESULT, THAT NO OBSTRUCTION OF THE NATURAL FLOW OF WATER WILL RESULT, AND SUBJECT TO ALL OWNERS OF PROPERTY AFFECTED BY SUCH CONSTRUCTION BECOMING A PARTY TO THE REQUEST. WHEN CONSTRUCTION IS PERMITTED, ALL FINISHED FLOOR ELEVATIONS SHALL BE A MINIMUM OF ONE (1) FOOT ABOVE THE 100-YEAR FLOOD ELEVATION.

**UTILITY EASEMENTS RESTRICTION**  
ANY PUBLIC UTILITY, INCLUDING THE CITY OF DECATUR, SHALL HAVE THE RIGHT TO REMOVE ALL OR PART OF ANY BUILDING, FENCES, TREES, SHRUBS, OTHER GROWTH OR IMPROVEMENTS WHICH IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, OR EFFICIENCY OF ITS RESPECTIVE SYSTEMS ON ANY OF THE EASEMENTS SHOWN ON PLAT; AND ANY PUBLIC UTILITY, INCLUDING THE CITY OF DECATUR, SHALL HAVE THE RIGHT AT ALL TIMES OF INGRESS AND EGRESS TO AND FROM AND UPON SAID EASEMENTS FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, INSPECTION, PATROLLING, MAINTAINING AND ADDING TO OR REMOVING ALL OR PART OF ITS RESPECTIVE SYSTEMS WITHOUT THE NECESSITY AT ANY TIME OF PROCURING THE PERMISSION OF ANYONE.

**PUBLIC OPEN SPACE EASEMENT RESTRICTION**  
NO STRUCTURE, OBJECT OR PLANT OF ANY TYPE MAY OBSTRUCT VISION FROM A HEIGHT OF THIRTY (30) INCHES TO A HEIGHT OF TEN (10) FEET ABOVE THE TOP OF CURBS, INCLUDING, BUT NOT LIMITED TO BUILDINGS, FENCES, WALKS, SIGNS, TREES, SHRUBS, CARS, TRUCKS, ETC., IN THE PUBLIC OPEN SPACE EASEMENT AS SHOWN ON THE.

**LANDSCAPE RESTRICTION**  
LANDSCAPE AREAS ARE STRICTLY RESERVED AS LANDSCAPED, OPEN GREEN SPACES ONLY AND SHALL NEVER ALLOW INTRUSIONS OF ANY KIND THAT ARE NOT LANDSCAPE RELATED OR THAT IN ANYWAY LESSEN THE AMOUNT OF AREA OR LANDSCAPE MATERIAL WITHOUT THE EXPRESSED, WRITTEN PERMISSION OF THE CITY OF DECATUR.

**BUFFER RESTRICTION**  
BUFFER AREAS ARE STRICTLY RESERVED AS LANDSCAPED, OPEN GREEN SPACES ONLY AND SHALL NEVER ALLOW INTRUSIONS OF ANY KIND THAT ARE NOT LANDSCAPE RELATED OR THAT IN ANYWAY LESSEN THE AMOUNT OF AREA OR LANDSCAPE MATERIAL. BUFFER WALLS SHALL BE HEREAFER AND FOREVERMORE RETAINED UNTIL SAID NEED DISSOLVES AND EXPRESSED, WRITTEN PERMISSION FROM THE CITY IS GRANTED TO DO OTHERWISE.

**GREEN SPACE RESTRICTION**  
GREEN SPACE AREAS ARE STRICTLY RESERVED AS LANDSCAPED, OPEN GREEN SPACES ONLY AND SHALL NEVER ALLOW INTRUSIONS OF ANY KIND THAT ARE NOT LANDSCAPE RELATED OR THAT IN ANYWAY LESSEN THE AMOUNT OF AREA OR LANDSCAPE MATERIAL WITHOUT THE EXPRESSED, WRITTEN PERMISSION OF THE CITY OF DECATUR.

IN REFERENCE TO MAP No. 48497C-1200 OF THE FLOOD INSURANCE RATE MAPS (FIRM), THE SUBJECT PROPERTY IS IN ZONE X, OUTSIDE THE 500 YEAR FLOOD PLAIN, EFFECTIVE DATE DECEMBER 19, 2011.

**SURVEYOR'S NOTES**  
1. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT SURVEYED OR EXAMINED OR CONSIDERED AS PART OF THIS SURVEY. NO EVIDENCE OR STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONDITIONS, CONTAINERS OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY.  
2. IN PROVIDING THIS SURVEY NO ATTEMPT HAS BEEN MADE TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY OR LOCATION OF ANY UTILITY EXISTING ON THE SITE, WHETHER PRIVATE, MUNICIPAL OR PUBLIC OWNED.  
3. UTILITY WAS LOCATED ON THE GROUND BY MARKS PROVIDED BY RESPECTIVE UTILITY PROVIDERS THROUGH #11 DIG-TEST REQUEST.  
4. THE PROFESSIONAL SURVEYOR HAS MADE NO INVESTIGATION OR INDEPENDENT SEARCH FOR EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.  
5. BEARINGS ARE GRID BASED ON GPS OBSERVATIONS. DISTANCES ARE SURFACE COMBINED SCALE FACTOR OF 0.99994. TEXAS NORTH CENTRAL STATE PLANE COORDINATE SYSTEM USING THE NAD 83 HORIZONTAL DATUM.  
6. COPYRIGHT EDWARDS SURVEYING, L.L.C. ALL RIGHTS RESERVED. NO PART OF THIS DRAWING MAY BE REPRODUCED BY PHOTOCOPIING, RECORDING OR BY ANY OTHER MEANS, OR STORED, PROCESSED OR TRANSMITTED IN OR BY ANY COMPUTER OR OTHER SYSTEMS WITHOUT THE PRIOR WRITTEN PERMISSION OF THE SURVEYOR. COPIES OF THIS PLAT WITHOUT AN ORIGINAL SIGNATURE AND IMPRESSION SEAL ARE NOT VALID.

**ZBA CASES**

ZBA 2018-07 front yard setback of 17.0' approved 6-18-18  
ZBA 2018-08 north side yard setback of 2.0' approved 6-18-18  
ZBA 2018-09 ZBA approved the existing accessory structures to remain in the rear yard setback as identified in Attachment 3 "Proposed Plat Exhibit" of the 06/18/18 Staff Report.

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, THIS PLAT WAS DULY APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF DECATUR, TEXAS.

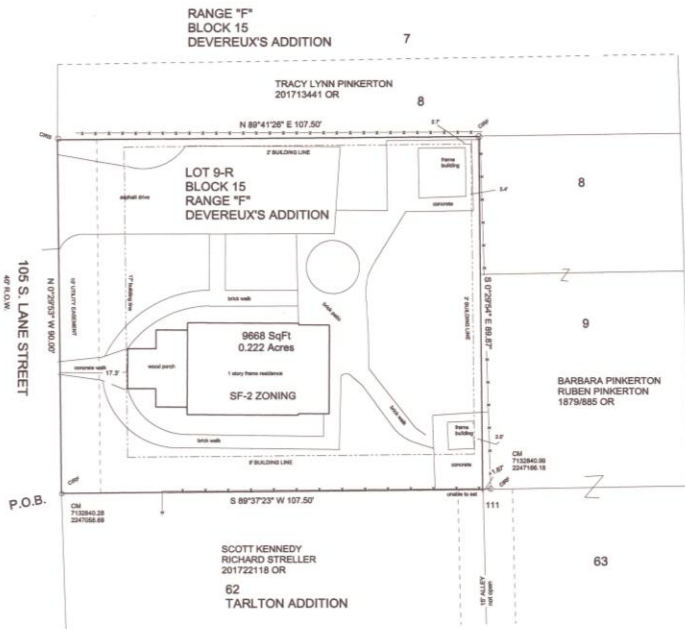
BY: \_\_\_\_\_  
CHAIRMAN

ATTEST: \_\_\_\_\_  
PLANNING DIRECTOR

THE CITY COUNCIL OF DECATUR, TEXAS, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, VOTED AFFIRMATIVELY TO ADOPT THIS PLAT AND APPROVE IT FOR FILING OF RECORD.

BY: \_\_\_\_\_  
MAYOR

ATTEST: \_\_\_\_\_  
CITY SECRETARY



LOT 9-R, BLC/FINAL PLAT OF: "F", DEVEREUX'S ADDITION to the City of Decatur, Wise County, Texas, being a replat of Lots 8 and 9, Block 15, Range "F", Devereux's Addition to the City of Decatur, Wise County, Texas, an unrecorded subdivision to the City of Decatur, Wise County, Texas, being the same tract of land as deeded to Evon R. Neiman and wife, Marsha L. Nieman in Volume 1879, Page 670, Official Records, Wise County, Texas.

STATE OF TEXAS §  
COUNTY OF WISE §  
WE, THE UNDERSIGNED, OWNERS OF THE LAND SHOWN ON THIS PLAT WITHIN THE AREA DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

Being all that certain tract or parcel of land out of Lots 8 and 9, Block 15, Range "F", Devereux's Addition to the City of Decatur, Wise County, Texas, as deeded to Evon R. Neiman and wife, Marsha L. Neiman in Volume 1879, Page 670, Official Records, Wise County, Texas, described to wit:  
Beginning at an iron stake found for corner in the east line of S. Lane Street at the southwest corner of Lot 9, Block 15, Devereux's Addition and the northwest corner of Block 62, Tarlton Addition, being the southwest corner of said Neiman Lot and the northwest corner of a tract as deeded to Scott Kennedy and Richard Stroller in Instrument No. 201722118, Official Records, Wise County, Texas;  
Thence with the east line of S. Lane Street and the west line of Block 15, North 00°29'53" West 90.00 feet to a capped iron stake set for corner at the northwest corner of said Neiman Lot and the southwest corner of a lot deeded to Tracy Lynn Pinkerton in Instrument No. 201713441, Official Records, Wise County, Texas;  
Thence with the south line of said Pinkerton Lot, North 89°41'26" East 107.50 feet to a capped iron stake found for corner at the northwest corner of a lot deeded to Barbara Pinkerton and Ruben Pinkerton in Volume 1879, Page 885, Official Records, Wise County, Texas;  
Thence with the west line of said Barbara Pinkerton lot and the east line of said Newsmen Lot, South 00°29'54" East 89.87 feet to a point (unable to set) for corner located 1.67 feet west from a capped iron stake found (had been moved);  
Thence along a fence line on the south line of said Neiman Lot and the north line of said Kennedy and Stroller lot, South 89°37'23" West 107.50 feet to the Point of Beginning, containing 9668 square feet or 0.222 acre of land, more or less.

AND DESIGNATED HEREIN AS LOT 9-R, BLOCK 15, RANGE "F" DEVEREUX'S ADDITION TO THE CITY OF DECATUR, WISE COUNTY, TEXAS, AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, PARKS, WATER COURSES, DRAINS, EASEMENTS, RIGHTS-OF-WAY AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED.

OWNER \_\_\_\_\_

DATE: \_\_\_\_\_

STATE OF TEXAS §

COUNTY OF \_\_\_\_\_ §

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED \_\_\_\_\_, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

NOTARY PUBLIC \_\_\_\_\_

\_\_\_\_\_ COUNTY, TEXAS.

STATE OF TEXAS §  
COUNTY OF WISE §

CERTIFICATE OF SURVEYOR  
I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND.

REGISTERED PROFESSIONAL LAND SURVEYOR  
DATE: \_\_\_\_\_

EDWARDS SURVEYING LLC  
208 W. Walnut Street  
Decatur, Texas 76234  
(940) 627-2961  
Tx Cert. 100494-00  
2018-056  
May 18, 2018  
Revised June 8, 2018  
Revised June 21, 2018



## STAFF REPORT

*July 3, 2018–Planning & Zoning Commission Meeting*

**TO:** Planning & Zoning Commissioners      **CASE:** SUP2018-03  
**FROM:** Dedra D. Ragland, AICP, Planning Director      **APPLICANT:** Aaron Cole, on behalf of West Walnut Investments LLC  
**DATE:** June 15, 2018      **REQUEST:** Specific Use Permit

### Case Notes:

Commission to hear and take public comment and take action to make a recommendation to City Council regarding Specific Use Permit Application 2018-03—Aaron Cole’s request, on behalf of West Walnut Investments, LTD, for a Specific Use Permit to allow Multiple Family Dwellings as part of a Mixed Use Development in the C1-A, Decatur Square Business District on approximately 0.26 acres of land being legally described as all of Lots 4, 5, 6 and part of an alley, Block 5, C.J. Crabb’s Addition, and more commonly referred to as 302 W. Walnut Street, Decatur Texas.

### Legality:

According to Article 5 “Zoning Districts,” Subsection 5.2.5 “SUP, Specific Use Permit,” the City Council of the City of Decatur, Texas, after public hearing and proper notice to all parties affected and after recommendations by the Planning and Zoning Commission may authorize the issuance of Specific Use Permits for the uses indicated by “S” in the Land Use Schedule, shown in Article 6 “Use Regulations,” Section 6.1 “Use Chart.”

Also pursuant to 5.2.5.E.(6) of the Zoning Regulations, a Specific Use Permit shall be amended or rescinded if one (1) or more of the following occurs:

1. “There is a violation and conviction of any of the provisions of this Ordinance that occurs on the property for which the Specific Use is granted;
2. The building, premises, or land use authorized by the Specific Use Permit is enlarged greater than ten percent (as noted in (3)(a)(ii)), modified, structurally altered, or otherwise changed in violation of the terms of the Specific Use Permit and/or this Ordinance;
3. No activity or progress has occurred on the property for a period of two (2) years or longer;
4. Violation and correction of any provision of the terms or conditions of a Specific Use Permit, for which ten (10) days written notice of violation has been provided to the owner or occupant, and which violation is not remediated in accordance with the written notice. One (1) or more incidents of recurrence of the same violation(s) for which a correction was rendered within a calendar year period shall be cause for revocation of a SUP without additional notice to the Owner or Occupant, other than notice of date and time of public hearing pursuant to this Section;
5. Ad valorem taxes on the property are delinquent by more than six (6) months; or
6. The Specific Use Permit was obtained by fraud or with deceptions.”

Additionally, excerpts from Subsection 5.2.5 SUP, Specific Use Permit, of Article 5 of the Zoning Regulations read as follows:

- A. *General Description and Purpose.* The uses listed under the various zoning district classifications set forth in the Ordinance as uses allowed with an approved Specific Use Permit are so classified because

they more intensely dominate the area in which they are located than do other uses permitted in the district, and therefore require additional review and regulation to ensure compatibility with surrounding uses.

- B. *Consideration for Compatibility.* With consideration given to setting, physical features, compatibility with surrounding land uses, traffic, and aesthetics, certain Uses requiring a Specific Use Permit may locate in an area where they will be compatible with existing or planned land uses generally allowed within a Zoning District.
- C. *Review and Approval Authorities.*
- 1) The Planning and Zoning Commission shall recommend to the City Council approval, approval with modifications, or denial for each Specific Use Permit Application.
  - 2) Upon receipt and consideration of the recommendation from the Planning and Zoning Commission, the City Council shall review each case on its own merit, apply the criteria set forth in this Section and other related factors deemed necessary and appropriate given the facts and circumstances presented, and, if appropriate, authorize said use by granting a Specific Use Permit for the use. The City Council shall have the discretion to impose conditions in addition to those recommended by the Planning and Zoning Commission or to alter or remove such recommended conditions if the City Council determines such action to be necessary and appropriate to ensure compatibility or ensure protection of public health, safety, and welfare.
- D. *Application and Site Plan Required.*
- 1) Application and public hearing procedures for a Specific Use Permit shall be completed in the same manner as an Application for Rezoning. A Site Plan shall be included with the application.
  - 2) The Planning and Zoning Commission or City Council may require additional information or drawings including but not limited to building floor plans, operating data and expert evaluation or testimony concerning the location, function and characteristics of any building or use proposed as it determines necessary and appropriate to evaluate the application.

Per Ordinance 2018-05-06, not yet codified, adopted by City Council on May 29, 2018, and published on June 2, 2018, Section 2.02 E. "Special Regulations," was amended as follows: "E. Special Regulations. The following Multiple Family Dwelling uses shall be allowed within the C-1A, Decatur Square Business District upon issuance of a Specific Use Permit approved in accordance with this Ordinance: (1) as a Loft Dwelling or Live-Above Unit on upper floors of a building above a non-residential use; or (2) on the first floor of a building when part of a Mixed Use Development that includes commercial, retail and office uses.

Also per Section 2.3 of Ordinance 2018-05-06, Article 6, "Use Regulations," Section 6.1 "Use Chart," Subsection 6.1.2 "Allowed Uses and Permit Requirements," Table 7. "Permitted Use Chart," of the Appendix B, "Zoning" of the City of Decatur, Texas Code of Ordinances is amended to add Multiple Family Dwelling use when part of a mixed use development with a Specific Use Permit.

#### **Analysis:**

- Mixed Use is described as any urban, suburban or village development, or even a single building, that blends a combination of residential, commercial, retail, office, cultural, and/or institutional uses, where those functions are physically and functionally integrated and that provides pedestrian connections between floors and uses. West Walnut Investments LLC have 0.26 acres of land and are proposing Multiple Family Dwellings as part of a Mixed Use Development.
- Staff is not recommending that any additional conditions be imposed for approval of the SUP.
- Twenty-six (26) property owners were notified. Staff has received seven (7) responses in favor of the request and no responses neutral to or opposed to the request.

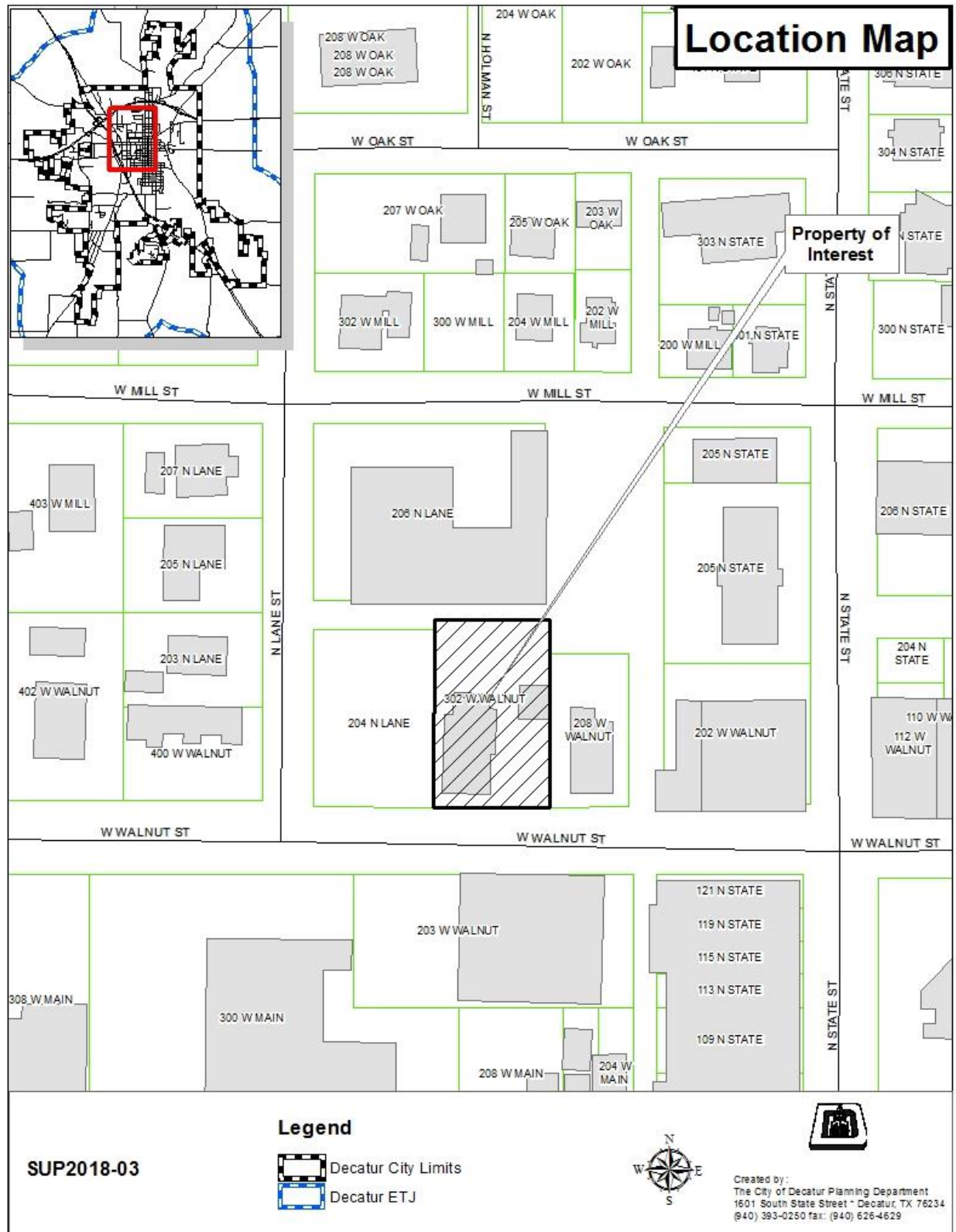
**Recommendation:**

Staff recommends approval.

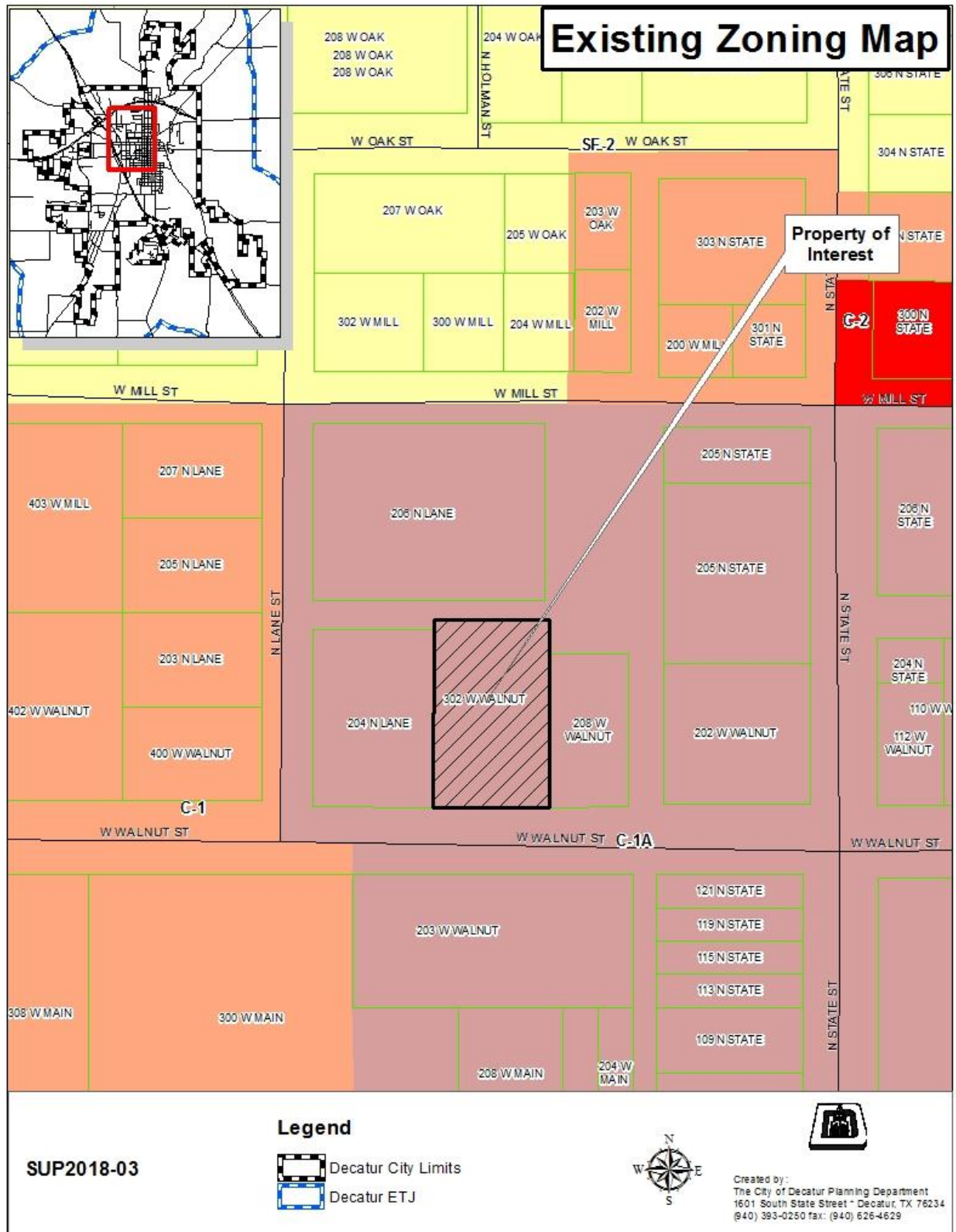
**Attachments:**

1. Location Map
2. Existing Zoning Map
3. Existing Land Use Map
4. Proposed Site Plan
5. 200' Property Owner Notification Map
6. Property Owner Response Letters
7. Draft Ordinance

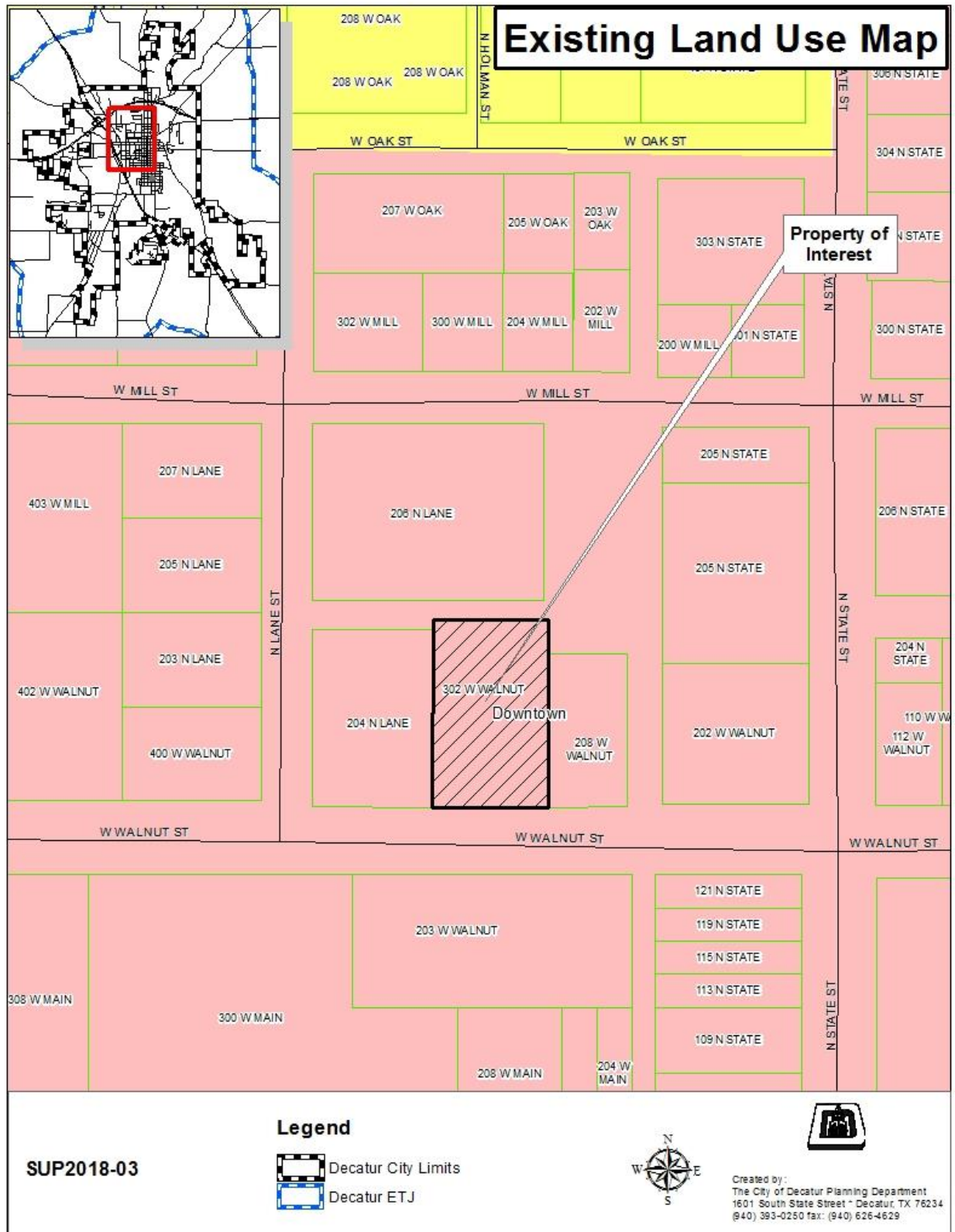
# Attachment 1 Location Map



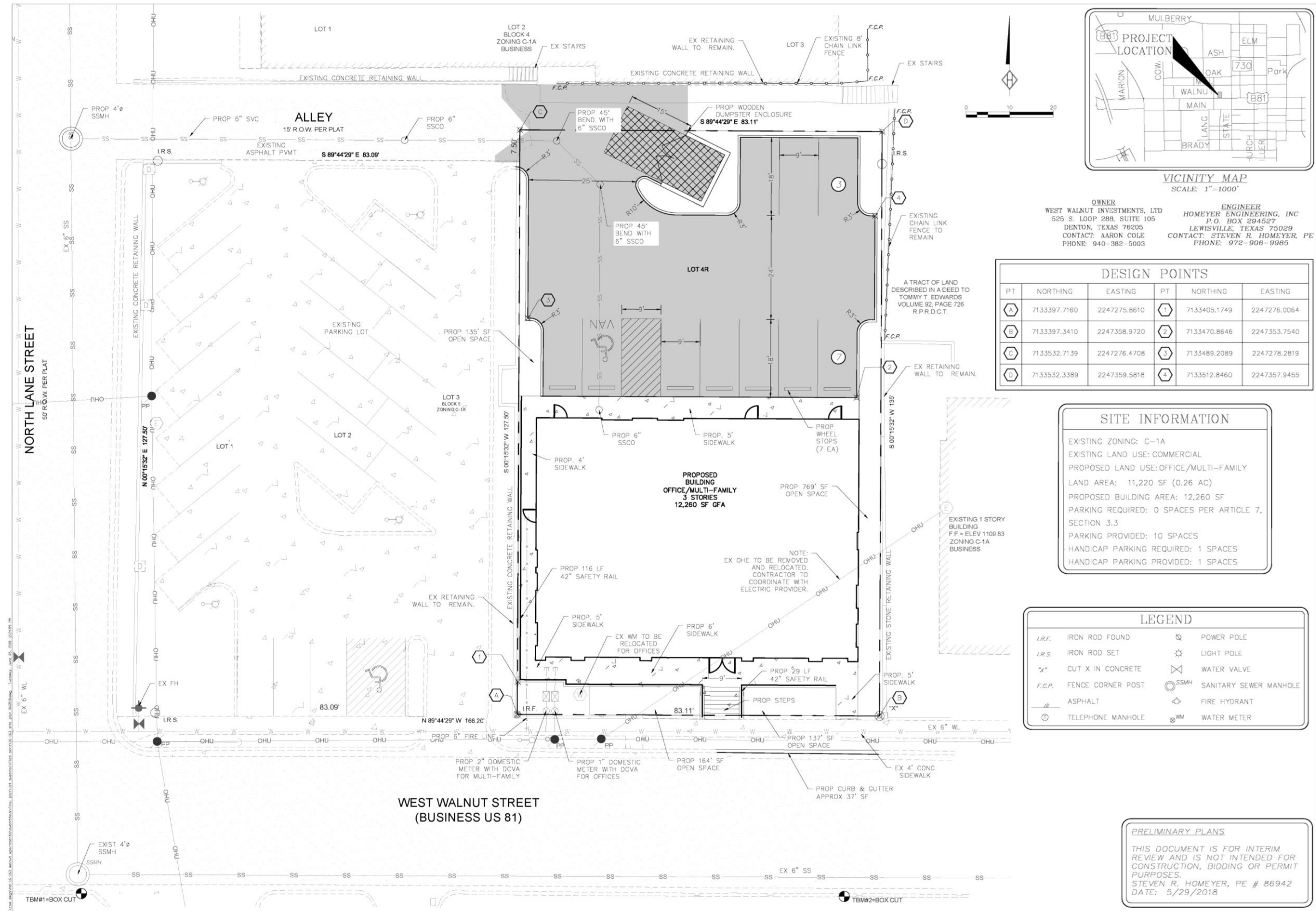
## Attachment 2 Existing Zoning Map



# Attachment 3 Existing Land Use Map



Attachment 4  
Proposed Site Plan



**HOMEYER ENGINEERING, INC.**  
TBE FIRM REGISTRATION NO. F-8440  
P.O. BOX 294527 • LEWISVILLE, TEXAS • 75029  
972-906-9985 PHONE • 972-906-9987 FAX  
WWW.HEI.US.COM

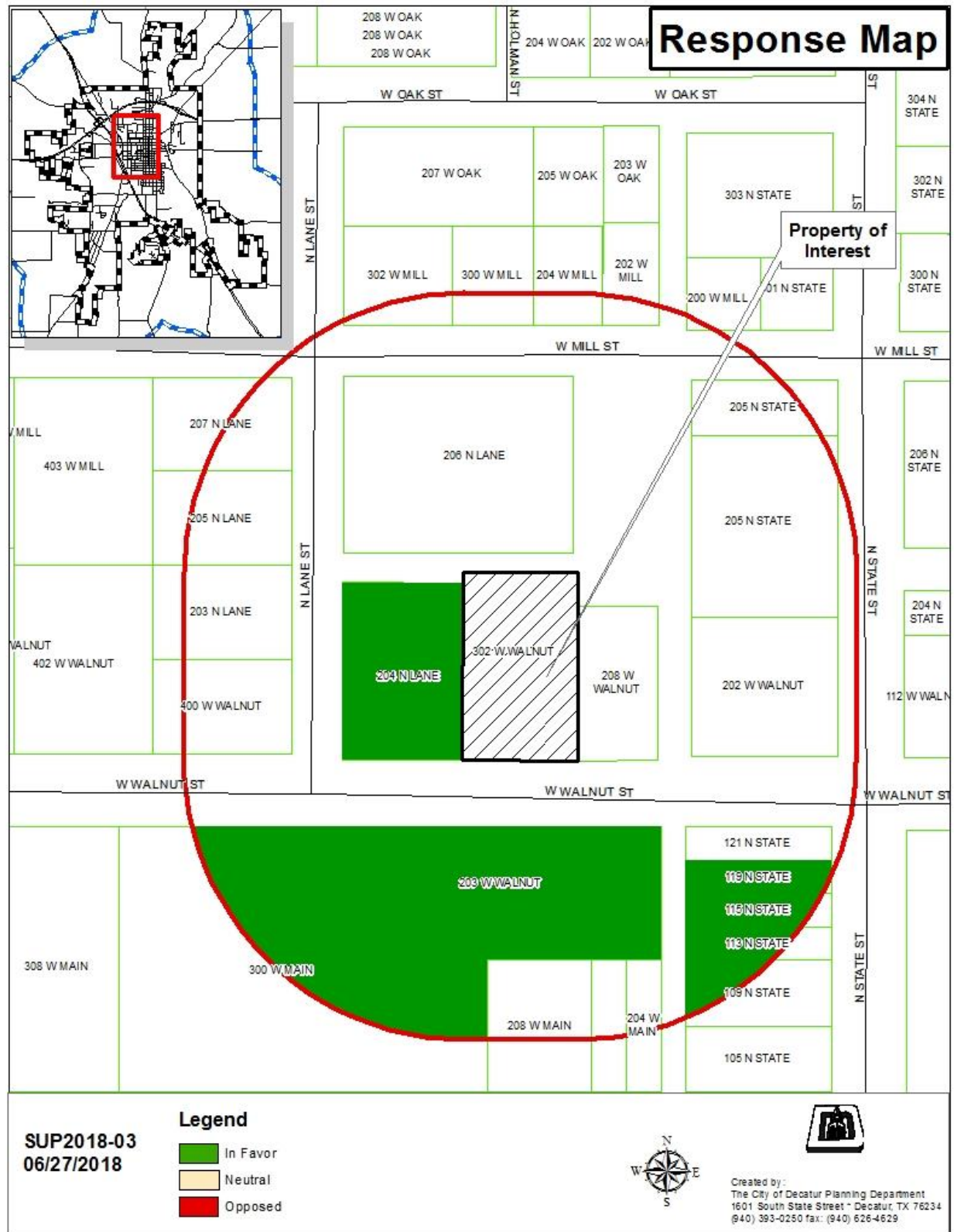


302 W. WALNUT  
LOT 4R, BLOCK 5  
C.J. CRABBE ADDITION  
CITY OF DECATUR  
WISE COUNTY, TEXAS

**SITE PLAN**

DRAWN: BSS  
DATE: 05/29/2018  
HEI #: 16-163  
**SHEET NO:**  
C1

Attachment 5  
**200' Property Owner Notification Map**



## Property Owner Response Letters



## CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

Mailed 06/15/18

### Notice of Public Hearing

#### Specific Use Permit SUP2018-03

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Planning Department  
1601 S. State Street  
Decatur, Texas 76234

Attn: Dedra D. Ragland, AICP, Planning Director

These forms are used to calculate the percentage of landowners that support and oppose the request. The City Council and Planning and Zoning Commission are informed of the percent of responses in support and in opposition.

Please circle one:

In favor of request

Neutral to request

Opposed to request

Reasons for Opposition: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Physical Address of Property within 200 feet: Tax ID: R000025642 Property Address: 109 N STATE STREET



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

Mailed 06/15/18

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Please circle one:

In favor of request

Neutral to request

Opposed to request

Reasons for Opposition: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Physical Address of Property within 200 feet: Tax ID: R000025640 Property Address: 113 N STATE STREET



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0230 voice ★ (940) 626-4629 fax

Mailed 06/15/18

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Please circle one:

In favor of request

Neutral to request

Opposed to request

Reasons for Opposition: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: Mark Moran

Mailing Address: P.O. Box 60099

City, State, Zip: Dallas, TX 75360

Telephone Number: 940-704-7212

Physical Address of Property within 200 feet: Tax ID: R000025641 Property Address: 115 N. STATE STREET



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

Mailed 06/15/18

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Opposed to request

Reasons for Opposition: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Physical Address of Property within 200 feet: TUN ID: R000025637 Property Address: 119 N STATE STREET



# CITY OF DECATUR, TEXAS

Development Services • 1601 S. State Street • Decatur, TX 76234 • (940) 393-0250 voice • (940) 626-4628 fax

Mailed 06/15/18

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Neutral to request

Opposed to request

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Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Physical Address of Property within 200 feet Tax ID: R000024975 Property Address: 204 N LANE STREET



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

Mailed 06/15/18

## Notice of Public Hearing Specific Use Permit SUP2018-03

The Planning and Zoning Commission (P&Z) of the City of Decatur will hold a public hearing on Tuesday, July 3, 2018, at 5:30 p.m. at the City Hall Chamber located at 302 W. Walnut, Decatur TX 76234 for the consideration and recommendation of Specific Use Permit Application 2018-03—Aaron Cole's request, on behalf of West Walnut Investments, LTD, for a Specific Use Permit to allow Multiple Family Dwellings as part of a Mixed Use Development in the C1-A, Decatur Square Business District on approximately 0.26 acres of land being legally described as all of Lots 4, 5, 6 and part of an alley, Block 5, C.J. Crabb's Addition, and more commonly referred to as 302 W. Walnut Street, Decatur Texas.

On Monday, July 9, 2018, at 6:00 p.m., the City Council of the City of Decatur will hold a public hearing and first reading of an Ordinance regarding Specific Use Permit Application 2018-03—Aaron Cole's request, on behalf of West Walnut Investments, LTD, for a Specific Use Permit to allow Multiple Family Dwellings as part of a Mixed Use Development in the C1-A, Decatur Square Business District on approximately 0.26 acres of land being legally described as all of Lots 4, 5, 6 and part of an alley, Block 5, C.J. Crabb's Addition, and more commonly referred to as 302 W. Walnut Street, Decatur Texas. The City Council is scheduled to consider the second reading of the Ordinance and take final action on Monday, July 23, 2018, at 6:00 p.m. Both City Council meetings will be held at the City Hall Council Chamber located at 201 E. Walnut, Decatur, Texas 76234.

By law, the Planning and Zoning Commission must hold a public hearing and then make a recommendation to the City Council concerning the request. The City Council must also hold a public hearing to decide whether or not to approve the request given public input and the Planning & Zoning Commission's recommendation.

You have the right as a City of Decatur resident and property owner within 200' of the area of interest to present your views before the Planning and Zoning Commission and City Council during their public hearings. At the hearings, you may speak, have someone speak on your behalf or be represented by legal counsel. You may also present your views in writing or present a petition listing the signatures of people who represent your views. Either way, your input must come before or during the public hearing to be considered.

This letter is sent to all taxpayers shown on the approved City of Decatur 2018 tax roll who own real property inside the City Limits within two hundred (200) feet of property requesting the zoning change. This is your legal notification that these public hearings are being held and your official invitation to attend the public hearings. Please, in order for your opinion to be taken into account, return this form with your comments prior to the date of the public hearings. (This in no way prohibits you from attending and participating in the public hearings.) You may fax, mail or drop off form to the number or address located at the top of this page to the attention of:

Planning Department  
1601 S. State Street  
Decatur, Texas 76234

Attn: Dedra D. Ragland, AICP, Planning Director

These forms are used to calculate the percentage of landowners that support and oppose the request. The City Council and Planning and Zoning Commission are informed of the percent of responses in support and in opposition.

Please circle one:

☒ In favor of request

☐ Neutral to request

☐ Opposed to request

Reasons for Opposition: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Physical Address of Property within 200 feet: Tax ID: R000026534 Property Address: 203 W WALNUT STREET



# CITY OF DECATUR, TEXAS

Development Services \* 1601 S. State Street \* Decatur, TX 76234 \* (940) 393-0250 voice \* (940) 626-4629 fax

Mailed 06/15/18

## Notice of Public Hearing Specific Use Permit SUP2018-03

The Planning and Zoning Commission (P&Z) of the City of Decatur will hold a public hearing on Tuesday, July 3, 2018, at 5:30 p.m. at the City Hall Chamber located at 302 W. Walnut, Decatur TX 76234 for the consideration and recommendation of Specific Use Permit Application 2018-03—Aaron Cole's request, on behalf of West Walnut Investments, LTD, for a Specific Use Permit to allow Multiple Family Dwellings as part of a Mixed Use Development in the C1-A, Decatur Square Business District on approximately 0.26 acres of land being legally described as all of Lots 4, 5, 6 and part of an alley, Block 5, C.J. Crabb's Addition, and more commonly referred to as 302 W. Walnut Street, Decatur Texas.

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Please circle one:

In favor of request

Neutral to request

Opposed to request

Reasons for Opposition: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Physical Address of Property within 200 feet: Tax ID: R000026533 Property Address: 300 W MAIN STREET

Attachment 7  
**Draft Ordinance**

**ORDINANCE NUMBER \_\_\_\_\_**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCE OF THE CITY OF DECATUR, BY AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DECATUR, GRANTING A SPECIFIC USE PERMIT ALLOWING FOR MULTIPLE FAMILY DWELLINGS AS PART OF A MIXED USE DEVELOPMENT FOR PROPERTY LOCATED AT 302 W. WALNUT STREET, AN APPROXIMATELY 0.26 ACRE TRACT OF LAND BEING LEGALLY DESCRIBED AS ALL OF LOTS 4, 5, 6 AND PART OF AN ALLEY, BLOCK 5, C.J. CRABB'S ADDITION AND MORE COMMONLY KNOWN REFERRED TO AS 302 W. WALNUT STREET (SUP2018-03)**

**WHEREAS**, the current zoning of the tract of land is C-1A, Decatur Square Business District, and multiple family dwellings as part of a mixed use development is allowed with a Specific Use Permit (SUP); and

**WHEREAS**, application has been properly made to amend the Official Zoning Map of the City of Decatur, Texas, according to its legend to indicate that the affected area has conditional and limited uses, and such amendment is to indicate the appropriate zoning district for the approved use and prefixed by an "S" designation; and shall be indicated by numerical designation on the Zoning District Map; and issued to the property; and

**WHEREAS**, said application has been properly heard by the Planning and Zoning Commission of the City of Decatur, Texas, as required by State statutes and the Zoning Ordinance of said City; and

**WHEREAS**, said Planning and Zoning Commission has made recommendation that the change of the zoning classification as requested be APPROVED, and all legal requirements, conditions and prerequisites having been complied with, the case having come before the City Council of said City, after all legal notices, requirements, conditions and prerequisites having been complied with; and

**WHEREAS**, the City Council of the City of Decatur, Texas, at a called public hearing did consider all appropriate factors in determining whether to grant such requested amendment; and

**WHEREAS**, the City Council of the City of Decatur, Texas does find that the requested amendment is in the public interest and that the zoning change does not unreasonably invade the rights of adjacent property owners;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DECATUR TEXAS:**

**SECTION 1.** The Zoning Ordinance of the City of Decatur, Texas, be, and the same is

hereby amended and changed in that the use of the property described upon the attached Exhibit “A” (which Exhibit is made a part hereof for all purposes) is hereby changed and assigned a Specific Use Permit for Multiple Family Dwellings as part of a Mixed Use Development on the property located at 302 W. Walnut St.

**SECTION 2.** The Planning Director is hereby directed to correct the official zoning map of the City of Decatur, Texas, to reflect the herein change in zoning.

**SECTION 3.** In all other respects, the use of the tract or tracts of land hereinabove described shall be subject to all the applicable regulations contained in said City of Decatur Zoning Ordinance and all other applicable and pertinent ordinances of the City of Decatur, Texas.

**SECTION 4.** This ordinance shall be cumulative of all other ordinances of the City of Decatur and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

**SECTION 5.** This ordinance shall take effect on its final passage, and it is so ordained.

**PRESENTED ON FIRST READING THIS 9<sup>TH</sup> DAY OF JULY, 2018.**

**PRESENTED ON SECOND READING AND APPROVED THIS 23<sup>RD</sup> DAY OF JULY, 2018, BY A VOTE OF \_\_\_\_ AYES, \_\_\_\_ NAYS, \_\_\_\_ ABSTENTIONS, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF DECATUR, TEXAS.**

**APPROVED:**

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Martin B. Woodruff, MAYOR

**ATTEST:**

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Diane Cockrell, TRMC, CITY SECRETARY

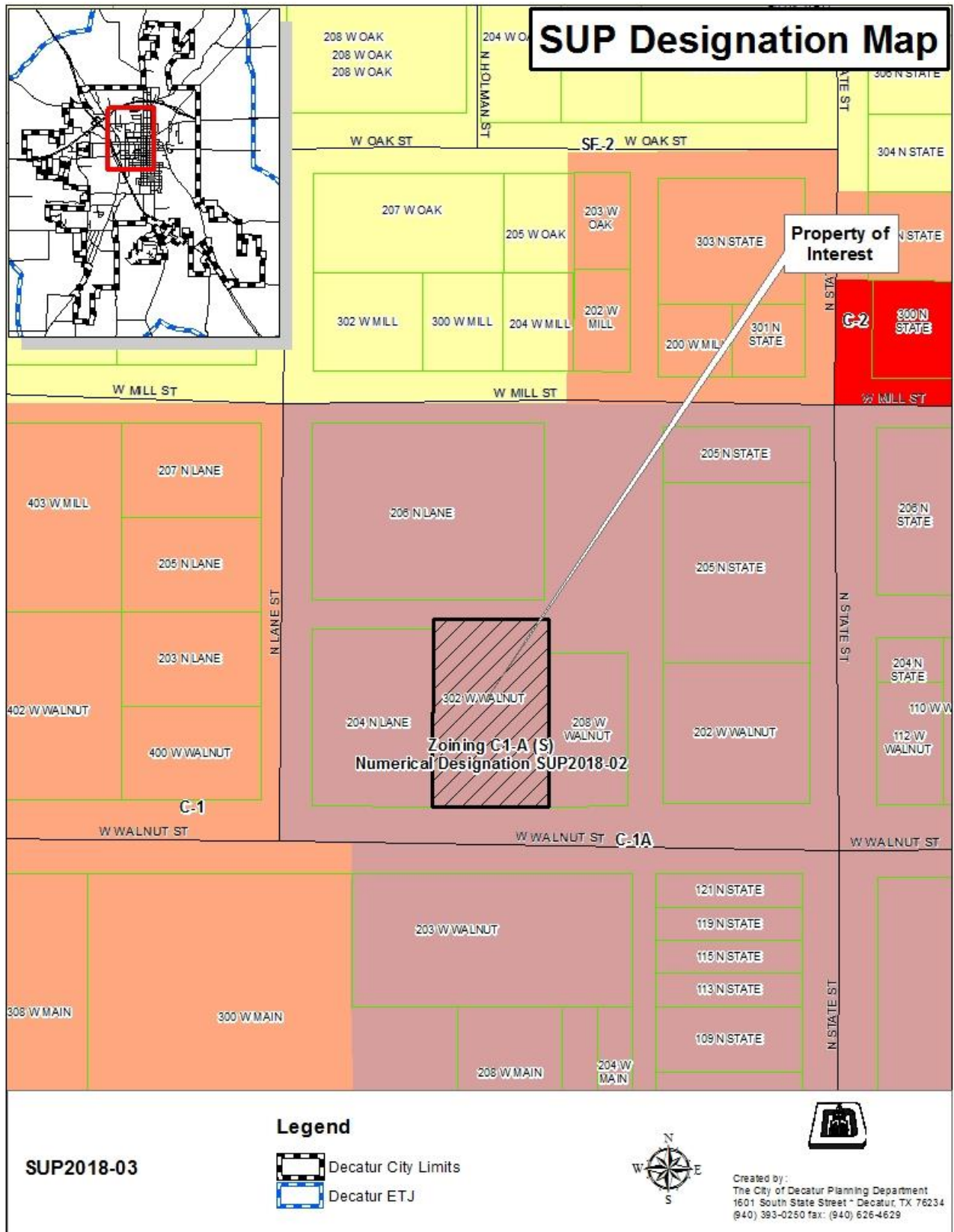
**APPROVED AS TO CONTENT AND FORM:**

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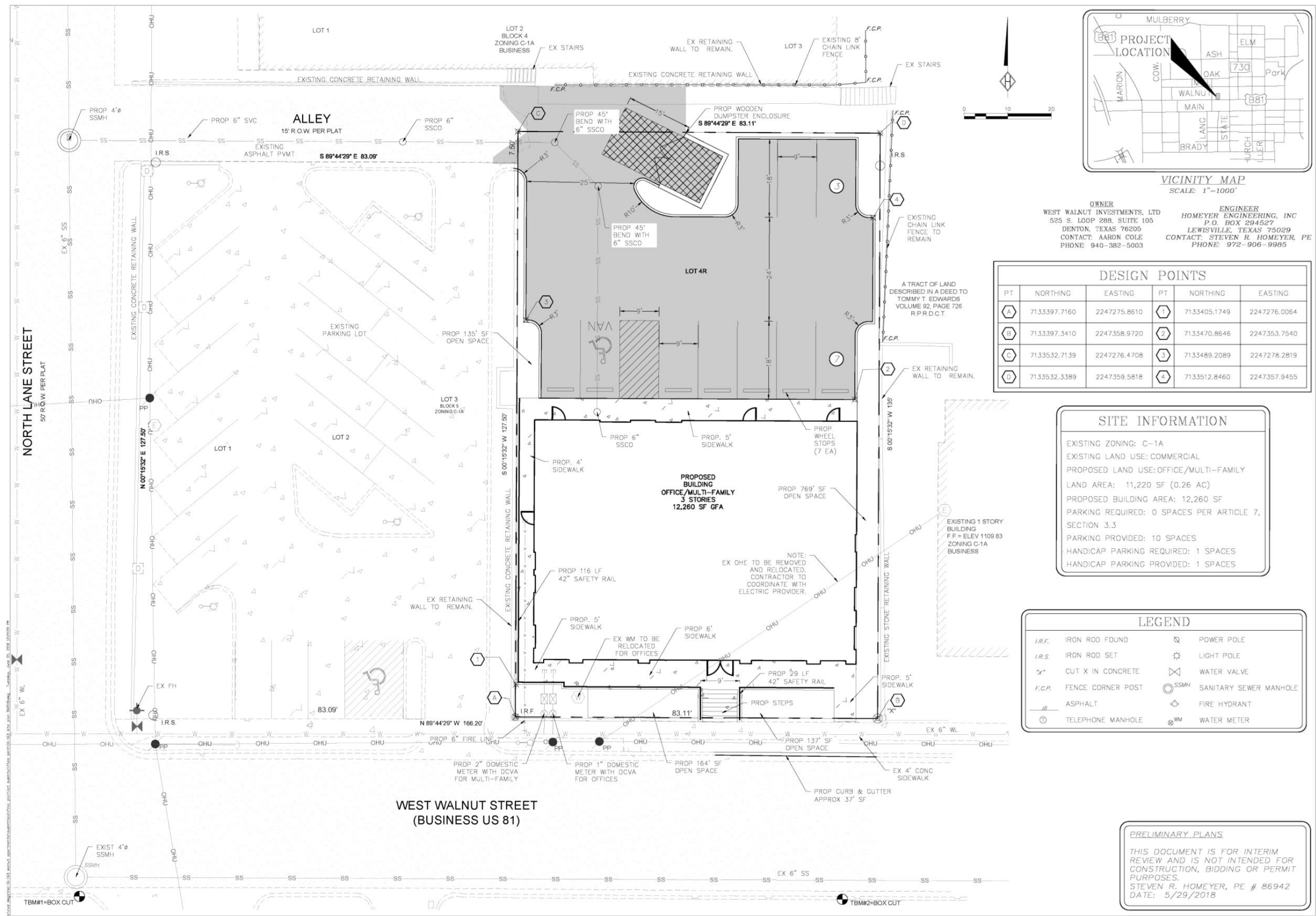
Mason L. Woodruff, CITY ATTORNEY

**EXHIBIT “A”**  
**SUP Zoning Designation Map**  
**Proposed/Preliminary Site Plan**  
**Legal Description**

# SUP Zoning Designation Map



Proposed/Preliminary Site Plan



**HOMEYER ENGINEERING, INC.**  
ENGINEERING, INC.  
TBE FIRM REGISTRATION NO. F-8440  
P.O. BOX 294527 • LEWISVILLE, TEXAS • 75029  
972-906-9985 • FAX 972-906-9987  
WWW.HEI.US.COM

302 W. WALNUT  
LOT 4R, BLOCK 5  
C.J. CRABBE ADDITION  
CITY OF DECATUR  
WISE COUNTY, TEXAS

**SITE PLAN**

DRAWN: BSS  
DATE: 05/29/2018  
HEI #: 16-163  
SHEET NO: C1

# Legal Description

## Legal Description of Property

WHEREAS, WEST WALNUT INVESTMENTS, LTD., is the owner of all that certain lot, tract or parcel of land lying and being situated in the City of Decatur, Wise County, Texas and being all of Lots 4, 5 and 6 and part of an alley, Block 5, C.J. Crabb's Addition, an addition to the City of Decatur, Wise County, Texas according to the plat recorded in Volume 31, Page 433, Deed Records, Wise County, Texas and being more fully described by mete and bounds as follows;

BEGINNING at a capped iron rod found at the Southwest corner of said Lot 4, Block 5 and being in the North line of West Walnut Street;

THENCE North 00 degrees 15 minutes 32 seconds East, 135.00 feet to a capped iron rod set stamped "KAZ" in the center of an alley;

THENCE South 89 degrees 44 minutes 29 seconds East, 83.11 feet to a capped iron rod set stamped "KAZ";

THENCE South 00 degrees 15 minutes 32 seconds West, 135.00 feet to an "X" cut found at the Southeast corner of said Lot 6 and being in the North line of said West Walnut Street;

THENCE along said North line, North 89 degrees 44 minutes 29 seconds West, 83.11 feet to the PLACE OF BEGINNING and containing 0.26 of an acre of land more or less



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

## STAFF REPORT

*July 3, 2018 – Planning & Zoning Commission Meeting*

<b>TO:</b>	<b>Planning &amp; Zoning Commissioners</b>	<b>CASE:</b>	<b>SI2018-04 / ZC2018-02</b>
<b>FROM:</b>	<b>Dedra D. Ragland, AICP, Planning Director</b>	<b>APPLICANT:</b>	<b>City of Decatur</b>
<b>DATE:</b>	<b>June 11, 2018</b>	<b>REQUEST:</b>	<b>Classification of Birthing Centers / Mid-Wife Facilities as a New Use</b>

### Case Notes:

Mrs. Patricia Gross, a property owner and a licensed Mid-Wife, has submitted a request to amend the City's Zoning Ordinance to add a proposed new use for Midwifery Professional Services as a use allowed by Specific Use Permit in the SF-2, Single Family-2 Zoning District. If the use is added, the property owner will seek to obtain a SUP for property she owns. As a result of the request from Ms. Gross, Staff conducted research regarding appropriate regulations for the use and also reviewed the City's zoning districts to determine appropriate districts for the use.

On June 28, 2018, a joint City Council and Planning and Zoning Commission workshop was held to provide the appointed and elected officials information on the nature of a Birthing Center / Mid-Wife Facility Use and for Staff to receive preliminary input regarding whether the use should be added as a permitted use, and if so, in which district(s) the use should be allowed as either a permitted use or a use allowed with an approved Specific Use Permit, as well as appropriate regulations for the use.

Staff received input indicating that the classification of Birthing Centers / Mid-Wife Facilities was appropriate as a new Use and that such use would be appropriate in the CO, Office Zoning District; the C-1, Restricted Business Zoning District; and the C-2, Thoroughfare Business Zoning District; and that such use should only be allowed after approval of a Specific Use Permit as authorized by the Zoning Ordinance. However, workshop statements by both P&Z Commissioners and City Council Members indicated that the use would not be appropriate in the City's single family residential zoning districts.

Based upon the input received, Staff is proceeding with an ordinance amendment to add the use in the CO, Office Zoning District; the C-1, Restricted Business Zoning District; and the C-2, Thoroughfare Business Zoning District; each with the requirement for an approved Special Use Permit. Additionally, as requested by Ms. Gross, Staff is forwarding the request from Ms. Gross to allow the use in SF-2, Single Family-2 Zoning District. The formal request from Ms. Gross will be considered by both the Planning and Zoning Commission and City Council.

### Legality:

According to the Texas Local Government Code, the land use designation can be legally amended given a public hearing (§213.003), review and recommendation from the Planning & Zoning Commission (§213.003), and approval by City Council (City Charter).

Section 6.1.3(A)(2) of the Zoning Ordinance reads as follows:

#### **6.1.3 Classification of New/Unlisted Uses**

It is recognized that new types of land use will arise in the future, and forms of land use not presently anticipated may seek to locate in the City. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the Use Chart shall be made as follows:

**A. Initiation.**

- (1) A property owner, City department, the Planning and Zoning Commission, or the City Council may propose zoning amendments to regulate new and previously unlisted uses in accordance with this Ordinance.
- (2) An application for the addition of a new or unlisted use shall be submitted to the Planning Director and shall contain a statement of facts providing all information necessary for the evaluation of the proposed use and the determination of the proper designation, including but not limited to the following:
  - (a) The nature of the use and whether the use involves dwelling activity, sales, services, or processing;
  - (b) The type of product sold or produced under the use;
  - (c) Whether the use has enclosed or outside storage and the amount and nature of the storage;
  - (d) Anticipated employment typically anticipated with the use;
  - (e) Transportation requirements;
  - (f) The nature and time of occupancy and operation of the premises;
  - (g) The off-street parking and loading requirements;
  - (h) The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;
  - (i) The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and
  - (j) Impervious surface coverage.

- B. Standards for new and unlisted uses may be interpreted by the Planning Director as being the same or similar to those of a similar use based upon the information provided by the applicant.
- C. If the Planning Director determines that the requested use does not fall within one (1) of the existing zoning district classifications, the Planning Director shall submit the request to the Planning and Zoning Commission for consideration as an amendment to the Zoning Ordinance pursuant to the procedures established herein. The Planning and Zoning Commission shall transmit its findings and recommendations to the City Council as to the classification proposed for any new or unlisted use.
- D. The City Council shall approve or disapprove the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is determined appropriate based upon its findings. If approved, the new or unlisted use shall be added in the use charts of the Zoning Ordinance according to Section 4.4 Amendments to Zoning Ordinance and Districts.

#### **Analysis:**

The State of Texas Health and Safety Code, Title 4. "Health Facilities," SubTitle B. "Licensing of Health Facilities," Chapter 244. "Birthing Centers," defines birthing centers / mid-wife facilities

as a place, facility, or institution at which a woman is scheduled to give birth following a normal, uncomplicated pregnancy, but does not include a hospital or the residence of the woman giving birth. Per Section 244.003 “License Required,” a person may not establish or operate a birthing center in Texas without an appropriate license issued under Chapter 244.

Staff’s research of other Texas cities, including those cities identified by the applicant in her request, predominantly reflect that birthing centers / mid-wife facilities, where permitted, are often classified as medical/office uses and allowed in nonresidential Zoning Districts.

Given that birthing centers / mid-wife facilities are not clearly specified in any of the Zoning Districts, classifying such uses broadens the flexibility of the City’s Zoning Ordinance and is a benefit to the City of Decatur.

**Recommendation:**

Staff recommends amending APPENDIX B “Zoning” of the Code of Ordinances of the City of Decatur, Texas, Article 3, “Definitions,” Section 3.2 “Definitions,” to add a definition for “Birthing Centers / Mid-Wife Facilities;” and amending Article 6 “Use Regulations,” Section 6.1 “Use Chart,” Subsection 6.1.2 “Allowed Uses and Permit Requirements,” Table 7. “Permitted Use Chart” to allow birthing centers / mid-wife facilities approved with a Specific Use Permit and other sections of Appendix “B,” “Zoning” as related to and resulting from the foregoing amendments to the CO, Office Zoning District; the C-1, Restricted Business Zoning District; and the C-2, Thoroughfare Business Zoning District.

Staff recommends denial of the request to allow Midwifery Professional Services use in the SF-2, Single Family-2 Zoning District as requested by the applicant.

**Attachments:**

1. Application submitted by Patricia Gross and Attorney Lance Vanzant requesting Zoning Amendment for Use Classification



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

## STAFF REPORT

*July 3, 2018 – Planning & Zoning Commission Meeting*

<b>TO:</b>	<b>Planning &amp; Zoning Commissioners</b>	<b>CASE:</b>	<b>SI2018-05</b>
<b>FROM:</b>	<b>Dedra D. Ragland, AICP, Planning Director</b>	<b>APPLICANT:</b>	<b>City of Decatur</b>
<b>DATE:</b>	<b>June 11, 2018</b>	<b>REQUEST:</b>	<b>Bingo Halls as a New Use</b>

### Case Notes:

As authorized by the Bingo Enabling Act, a proposition to legalize Bingo Games for Charitable purposes in the City of Decatur was passed at the election held on May 5, 2018 and canvassed on May 14, 2018. The City is required to amend the City's Zoning Ordinance to add a proposed new use for Bingo Game(s) as a use allowed with an approved Special Use Permit (SUP) in various Zoning Districts, including the SF-2, Single-Family 2 Zoning District; the CO, Office Zoning District; the C-1A, Decatur Square Business Zoning District; the C-1, Restricted Business Zoning District and the C-2, Thoroughfare Business Zoning District. If the use is added and allowed by SUP, qualified and licensed entities wishing to hold Bingo Games will be required to obtain a SUP before beginning operation.

On June 28, 2018, a joint City Council and Planning and Zoning Commission workshop was held to provide the appointed and elected officials with information on the nature of Bingo Games Use and for Staff to receive preliminary input regarding whether the use should be added as a permitted use, and if so, in which district(s) the use should be allowed as either a permitted use or a use allowed with an approved Special Use Permit, as well as appropriate regulations for the use.

Staff received input indicating that the classification Bingo Game(s) was appropriate as a new Use and that such use would be appropriate with a Special Use Permit in the SF-2, Single-Family 2 Zoning District for a religious society located in a residential zoning district but not within a residential structure, subject to compliance with Special Regulations outlined in the ordinance; the CO, Office Zoning District; the C-1A, Decatur Square Business Zoning District; the C-1, Restricted Business Zoning District and the C-2, Thoroughfare Business Zoning District; and that such use should only be allowed after approval of a Special Use Permit as authorized by the Zoning Ordinance, and also subject to compliance with the Special Regulations adopted in the Zoning Ordinance.

Based upon the input received, Staff is proceeding with an ordinance amendment to add the use in the SF-1, Single-Family 1 and SF-2, Single-Family 2 Zoning Districts for religious society only not within a residential structure and including special regulations; the CO, Office Zoning District; the C-1A, Decatur Square Business Zoning District; the C-1, Restricted Business Zoning District and the C-2, Thoroughfare Business Zoning District; each with the requirement for an approved Special Use Permit and subject to compliance with the Special Regulations adopted in the Zoning Ordinance.

**Legality:**

According to the Texas Local Government Code, the land use designation can be legally amended given a public hearing (§213.003), review and recommendation from the Planning & Zoning Commission (§213.003), and approval by City Council (City Charter).

Section 6.1.3(A)(2) of the Zoning Ordinance reads as follows:

**6.1.3 Classification of New/Unlisted Uses**

It is recognized that new types of land use will arise in the future, and forms of land use not presently anticipated may seek to locate in the City. In order to provide for such changes and contingencies, a determination as to the appropriate classification of any new or unlisted form of land use in the Use Chart shall be made as follows:

A. Initiation.

- (1) A property owner, City department, the Planning and Zoning Commission, or the City Council may propose zoning amendments to regulate new and previously unlisted uses in accordance with this Ordinance.
- (2) An application for the addition of a new or unlisted use shall be submitted to the Planning Director and shall contain a statement of facts providing all information necessary for the evaluation of the proposed use and the determination of the proper designation, including but not limited to the following:
  - (a) The nature of the use and whether the use involves dwelling activity, sales, services, or processing;
  - (b) The type of product sold or produced under the use;
  - (c) Whether the use has enclosed or outside storage and the amount and nature of the storage;
  - (d) Anticipated employment typically anticipated with the use;
  - (e) Transportation requirements;
  - (f) The nature and time of occupancy and operation of the premises;
  - (g) The off-street parking and loading requirements;
  - (h) The amount of noise, odor, fumes, dust, toxic materials and vibration likely to be generated;
  - (i) The requirements for public utilities such as sanitary sewer and water and any special public services that may be required; and
  - (j) Impervious surface coverage.

- B. Standards for new and unlisted uses may be interpreted by the Planning Director as being the same or similar to those of a similar use based upon the information provided by the applicant.
- C. If the Planning Director determines that the requested use does not fall within one (1) of the existing zoning district classifications, the Planning Director shall submit the request to the Planning and Zoning Commission for consideration as an amendment to the Zoning Ordinance pursuant to the procedures established herein. The Planning and Zoning Commission shall transmit its findings and recommendations to the City Council as to the classification proposed for any new or unlisted use.
- D. The City Council shall approve or disapprove the recommendation of the Planning and Zoning Commission or make such determination concerning the classification of such use as is

determined appropriate based upon its findings. If approved, the new or unlisted use shall be added in the use charts of the Zoning Ordinance according to Section 4.4 Amendments to Zoning Ordinance and Districts.

State law has a few provisions regulating entities engaging in bingo operations. Chapter 2001 of the Texas Occupations Code provides definitions and regulations. The following definitions are provided for your reference.

(4) "Bingo Game(s)", "Bingo" or "game" means, except as provided by Section 2001.551, a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols conforming to randomly selected numbers or symbols.

(4-a) "Bingo chairperson" means an officer or member of the board of directors of a licensed authorized organization who is designated in writing by the organization as responsible for overseeing the organization's bingo activities and reporting to the membership relating to those activities.

(5) "Bingo equipment" means equipment used, made, or sold for the purpose of use in bingo. The term:

(A) includes:

- (i) a machine or other device from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called;
- (ii) an electronic or mechanical cardminding device;
- (iii) a pull-tab dispenser;
- (iv) a bingo card;
- (v) a bingo ball; and
- (vi) any other device commonly used in the direct operation of a bingo game; and

(B) does not include:

- (i) a bingo game set commonly manufactured and sold as a child's game for a retail price of \$20 or less unless the set or a part of the set is used in bingo subject to regulation under this chapter; or
- (ii) a commonly available component part of bingo equipment such as a light bulb or fuse.

(6) "Bingo occasion" means a single gathering or session at which a bingo game or a series of bingo games, including selling and redeeming pull-tab bingo tickets, are conducted on the day and at the times listed on the license issued to a licensed authorized organization.

(7) "Charitable purpose" means a purpose described by Section 2001.454. (Sec. 2001.454. USE OF NET PROCEEDS FOR CHARITABLE PURPOSES. (a) A licensed authorized organization shall devote to the charitable purposes of the organization its net proceeds of bingo and any rental of premises.

(b) Except as otherwise provided by law, the net proceeds derived from bingo and any rental of premises are dedicated to the charitable purposes of the organization only if directed to a cause, deed, or activity that is consistent with the federal tax exemption the organization obtained under 26 U.S.C. Section 501 and under which the organization qualifies as a nonprofit organization as defined by Section 2001.002. If the organization is not required to obtain a federal tax exemption under 26 U.S.C. Section 501, the organization's net proceeds are dedicated to the charitable purposes of the organization only if directed to a cause, deed, or activity that is consistent with the purposes and objectives for which the organization qualifies as an authorized organization under Section 2001.002.)

(19) "Nonprofit organization" means an unincorporated association or a corporation that is incorporated or holds a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). The organization:

- (A) may not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services; and
- (B) must have obtained tax exempt status under Section 501(c), Internal Revenue Code of 1986.

(26) "Religious society" means a church, synagogue, or other organization organized primarily for religious purposes.

(27) "Veterans organization" means a nonprofit organization:

- (A) whose members are veterans or dependents of veterans of the armed services of the United States; and
- (B) that is chartered by the United States Congress and organized to advance the interests of veterans or active duty personnel of the armed forces of the United States and their dependents.

(28) "Volunteer fire department" means a fire-fighting organization that:

- (A) operates fire-fighting equipment;
- (B) is organized primarily to provide fire-fighting service;
- (C) is actively providing fire-fighting service; and
- (D) does not pay its members compensation other than nominal compensation.

**Analysis:**

Staff's research of other Texas cities that allow Charitable Bingo are often classified under Bingo or recreation/entertainment uses and allowed in most nonresidential Zoning Districts ranging from Commercial, Heavy Commercial, Neighborhood Mixed-Use, Retail, Office, Institutional, Industrial and/or Planned Development.

In speaking to Alice Banks, Education and Compliance Trainer for the Texas Lottery Commission, it is the Lottery Commission's duty to regulate and verify that the facility or establishment is licensed for Bingo and charitable purposes. The municipality is not responsible for making this determination. A municipality is responsible for identifying the Zoning Districts where Bingo facilities are permitted once an election is held and passed.

**Recommendation:**

Staff recommends amending APPENDIX B "Zoning" of the Code of Ordinances of the City of Decatur, Texas, Article 3, "Definitions," Section 3.2 "Definitions," to add definitions applicable to Bingo operations and amending Article 6 "Use Regulations," Section 6.1 "Use Chart," Subsection 6.1.2 "Allowed Uses and Permit Requirements," Table 7. "Permitted Use Chart" to allow charitable bingo facilities approved with a Special Use Permit and other sections of Appendix "B," "Zoning" as related to and resulting from the foregoing amendments to the SF-1, Single-Family-1 Zoning District and SF-2, Single-Family-2 Zoning District for religious society only and including special regulations; the CO, Office Zoning District; the C-1A, Decatur Square Business Zoning District; the C-1, Restricted Business Zoning District and the C-2, Thoroughfare Business Zoning District; each with the requirement for an approved Special Use Permit, also subject to Special Regulations.

**Attachments:**

1. Draft Ordinance / Regulations



## Attachment 1

### ORDINANCE NUMBER 2018-XX-XX

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF DECATUR, TEXAS BY AMENDING APPENDIX B—ZONING, ARTICLE 3, “DEFINITIONS”, SECTION 3.2 “DEFINITIONS” TO ADD DEFINITIONS APPLICABLE TO BINGO OPERATIONS; BY AMENDING ARTICLE 5 “ZONING DISTRICTS, SECTION 5.1 “ZONING DISTRICTS”, TO ADD “SPECIAL REGULATIONS” APPLICABLE TO BINGO OPERATIONS; BY AMENDING ARTICLE 6 (“TIONS”, SECTION 6.1 “USE CHART”, SUBSECTION 6.1.2 “ALLOWED USES AND PERMIT REQUIREMENTS”, TABLE 7. “PERMITTED USE CHART” TO ALLOW BINGO HALLS APPROVED WITH A SPECIAL USE PERMIT IN ACCORDANCE WITH THE TERMS OF THAT SECTION AND IN COMPLIANCE WITH SPECIAL REGULATIONS; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; PROVIDING A CUMULATIVE REPEALER AND SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; PROVIDING FOR PUBLICATION; AND NAMING AN EFFECTIVE DATE. (SI2018-05)**

**WHEREAS**, a proposition to legalize Bingo Games for charitable purposes in the City of Decatur was passed at the election held on May 5, 2018 and canvassed on May 14, 2018; and

**WHEREAS**, the City of Decatur’s Zoning Regulations does not currently define bingo games; and

**WHEREAS**, pursuant to Section 6.1.3(A)(2) of the Zoning Ordinance, a property owner has proposed a zoning amendment to regulate the operation of bingo games; and

**WHEREAS**, the City Council seeks to permit the operation of bingo games with the approval of a Specific Use Permit; and

**WHEREAS**, the Decatur Planning and Zoning Commission having held a public hearing and heard public comment regarding changes to City’s Zoning Ordinance relative to bingo games and having made to the Decatur City Council a recommendation of approval of various amendments to the Zoning Ordinance, including amendments to the SF-1, Single-Family 1 and SF-2, Single-Family 2 Zoning Districts for religious society only not within a residential structure and including special regulations; the CO, Office Zoning District; the C-1A, Decatur Square Business Zoning District; the C-1, Restricted Business Zoning District and the C-2, Thoroughfare Business Zoning District; each with the requirement for an approved Special Use Permit and subject to compliance with the Special Regulations adopted in the Zoning Ordinance; and

**WHEREAS**, after the holding of a public hearing and considering the comments and recommendation by the Planning and Zoning Commission, the Decatur City Council finds that permitting the operation of bingo games broadens the flexibility of the City's Zoning Ordinance; and

**WHEREAS**, the City Council further finds that such use should only be allowed after approval of a Specific Use Permit as authorized by the Zoning Ordinance; and

**WHEREAS**, the City Council has determined that the proposed change to the SF-1, Single-Family 1 and SF-2, Single-Family 2 Zoning Districts for religious society; the CO, Office Zoning District; the C-1A, Decatur Square Business Zoning District; the C-1, Restricted Business Zoning District and the C-2, Thoroughfare Business Zoning District regulations and other regulations offers the opportunity to encourage highest and best land use practices within the City Limits, and is in the interests of public health, safety and welfare;

**WHEREAS**, all non-conforming bingo operations presently being actively operated shall comply with all of the terms of this Ordinance before commencing operation and shall be considered legal non-conforming uses; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DECATUR, TEXAS:**

**SECTION 1.** The forgoing recitals are the findings of the City Council and are incorporated into this Ordinance as if set forth fully herein.

**SECTION 2.** The following amendments are hereby approved:

**2.01.** Article 3, "Definitions", Section 3.2 "Definitions" of Appendix B, "Zoning" of the City of Decatur, Texas is hereby amended to add definitions associated with Bingo in the State of Texas, which definitions shall be and read as follows, such definitions to be added in alphabetical order to the existing list of definitions, with all other definitions therein remaining the same without amendment:

"Bingo Game(s)", 'Bingo' or 'game' means, except as provided by Section 2001.551, a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols conforming to randomly selected numbers or symbols.

'Bingo chairperson' means an officer or member of the board of directors of a licensed authorized organization who is designated in writing by the organization as responsible for overseeing the organization's bingo activities and reporting to the membership relating to those activities.

'Bingo equipment' means equipment used, made, or sold for the purpose of use in bingo. The term:

(A) includes:

- (i) a machine or other device from which balls or other items are withdrawn to determine the letters and numbers or other symbols to be called;
- (ii) an electronic or mechanical card minding device;
- (iii) a pull-tab dispenser;
- (iv) a bingo card;
- (v) a bingo ball; and
- (vi) any other device commonly used in the direct operation of a bingo game; and

(B) does not include:

- (i) a bingo game set commonly manufactured and sold as a child's game for a retail price of \$20 or less unless the set or a part of the set is used in bingo subject to regulation under this chapter; or
- (ii) a commonly available component part of bingo equipment such as a light bulb or fuse.

‘Bingo occasion’ means a single gathering or session at which a bingo game or a series of bingo games, including selling and redeeming pull-tab bingo tickets, are conducted on the day and at the times listed on the license issued to a licensed authorized organization.

Bingo Operations as used in this Ordinance shall mean a state licensed authorized organization engaging in the operation of bingo as authorized by Chapter 2001 of the Texas Occupations Code, as amended, or other applicable state law.

‘Charitable purpose’ means a purpose described by Section 2001.454. (Sec. 2001.454. USE OF NET PROCEEDS FOR CHARITABLE PURPOSES.

- (a) A licensed authorized organization shall devote to the charitable purposes of the organization its net proceeds of bingo and any rental of premises.
- (b) Except as otherwise provided by law, the net proceeds derived from bingo and any rental of premises are dedicated to the charitable purposes of the organization only if directed to a cause, deed, or activity that is consistent with the federal tax exemption the organization obtained under 26 U.S.C. Section 501 and under which the organization qualifies as a nonprofit organization as defined by Section 2001.002. If the organization is not required to obtain a federal tax exemption under 26 U.S.C. Section 501, the organization's net proceeds are dedicated to the charitable purposes of the organization only if directed to a cause, deed, or activity that is consistent with the purposes and objectives for which the organization qualifies as an authorized organization under Section 2001.002.)

‘Nonprofit organization’ means an unincorporated association or a corporation that is incorporated or holds a certificate of authority under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes). The organization:

- (A) may not distribute any of its income to its members, officers, or governing body, other than as reasonable compensation for services; and
- (B) must have obtained tax exempt status under Section 501(c), Internal Revenue Code of 1986.

‘Religious society’ means a church, synagogue, or other organization organized primarily for religious purposes.

‘Veterans organization’ means a nonprofit organization:

- (A) whose members are veterans or dependents of veterans of the armed services of the United States; and
- (B) that is chartered by the United States Congress and organized to advance the interests of veterans or active duty personnel of the armed forces of the United States and their dependents.

‘Volunteer fire department’ means a fire-fighting organization that:

- (A) operates fire-fighting equipment;
- (B) is organized primarily to provide fire-fighting service;
- (C) is actively providing fire-fighting service; and
- (D) does not pay its members compensation other than nominal compensation.”

**2.02.** Article 5 “Zoning Districts, Section 5.1 “Zoning Districts”, Subsection “5.1.2 SF-1, Single-Family Residential District;” Subsection “5.1.3 SF-2, Single-Family Residential District;” Subsection “5.1.8 C-O, Office District;” Subsection “5.1.9 C-1, Restricted Business District;” Subsection “5.1.10 C-1A, Decatur Square Business District;” and Subsection “5.1.11 C-2, Thoroughfare Business District,” Section E. “Special Regulations” of Appendix B, “Zoning” of the City Of Decatur, Texas Code Of Ordinances is hereby amended to add the following Special Regulations applicable to Bingo use, which section shall be and read in its entirety as follows:

“E. Special Regulations. Bingo operations shall meet the following standards:

- A. If a “Religious society” is located in a residential zoned district, charitable bingo shall be allowed.
- B. Only a state licensed authorized organization shall engage in bingo operations within the City.
- C. The following acts shall be prohibited in relation with or as a result of a Bingo Operations (also referred to as “Use”). The following is not an exhaustive list but is

intended as illustrative of actions that violate the standards for conducting a Bingo Operations in a residential district:

- (1) Bingo Operations shall not be allowed within a residential structure.
- (2) No external evidence of the Use shall be detectable at any lot line or beyond, including advertising, signs, smoke, dust, noise, fumes, glare, vibration, or electrical disturbance beyond the property line shall be allowed.
- (3) No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the Bingo Operations shall be allowed.
- (4) In residential zoned districts, the parking shall meet parking requirements for C-2, Business Thoroughfare.
- (5) A maximum of one (1) commercial vehicle, capacity one (1) ton or less, may be used or parked on the property in connection with Bingo Operations. The commercial vehicle shall not be parked on the street.
- (6) Regular deliveries by heavy load delivery trucks or vehicles in excess of one and one-half (1½) tons shall be prohibited.
- (7) Outdoor merchandise shall not be offered or displayed for sale on the premises.
- (8) Any need for parking shall be accommodated within the off-street parking provided and along the street frontage of the lot, except as prohibited by Subsection (5) above.
- (9) A ready inventory of any commodity for sale shall not be allowed.
- (10) The Bingo Hall shall not accept customers or patrons or operate before 6:00 p.m. or after 11:00 p.m.
- (11) Except as expressly allowed by and in accordance with this Ordinance and other applicable City Ordinances, outdoor activities such as play areas shall be prohibited.”

D. The following acts shall be prohibited in relation with or as a result of a Bingo Operations (also referred to as “Use”). The following is not an exhaustive list but is intended as illustrative of actions that violate the standards for conducting a Bingo Operations in a C-O, C-1, C-1A, C-2, PD and CD Districts:

- (1) No smoke, dust, noise, fumes, glare, vibration, or electrical disturbance beyond the property line shall be allowed.
- (2) No exterior storage of material, equipment, vehicles, and/or supplies used in conjunction with the Bingo Operations shall be allowed.
- (3) Outdoor merchandise shall not be offered or displayed for sale on the premises.
- (4) A ready inventory of any commodity for sale shall not be allowed.
- (5) Except as expressly allowed by and in accordance with this Ordinance and other applicable City Ordinances, outdoor activities such as play areas shall be prohibited.”

**2.03.** Article 6, “Use Regulations,” Section 6.1 “Use Chart, Subsection 6.1.2 Allowed Uses and Permit Requirements,” Table 7. “Permitted Use Chart” of the Appendix B, “Zoning” of the City Of Decatur, Texas Code Of Ordinances is hereby amended to add Bingo Games Facilities as provided below, with all other uses in Table 7 remaining the same without amendment:

Recreational and Entertainment Uses														
Type Use	SF-1	SF-2	TH	2F	MF	MHD	C-O	C-1	C-1A	C-2	LI	HI	PD	CD
Amusement, Commercial, Outdoor								S		•	•	•	•	S
Amusement, Commercial, Indoor								•		•	•	•	•	S
Bingo Games	S*	S**					S	S	S	S			S	S
Golf Course, Commercial										•	•	•	•	
Golf Course, Private Country Club	S	S	•	S	S	S	•	•		•	•	•	•	S

\*Refer to Subsection “5.1.2 SF-1, Single-Family Residential District;” Section E. “Special Regulations” of Appendix B, “Zoning” of the City Of Decatur, Texas Code Of Ordinances.

\*\*Refer to Subsection “5.1.3 SF-2, Single-Family Residential District;” Section E. “Special Regulations” of Appendix B, “Zoning” of the City Of Decatur, Texas Code Of Ordinances.

**SECTION 3.** That this Ordinance shall be cumulative of all other ordinances of the City of Decatur and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to any such ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of such ordinance and for that purpose the ordinance shall remain in full force and effect.

**SECTION 4.** That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.** It shall be unlawful for any person, corporation, or other entity to violate any provision of this Ordinance, and any person violating or failing to comply with any provision of this Ordinance shall be fined, upon conviction, not less than One Dollar (\$1.00) nor more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**SECTION 6.** This Ordinance shall take effect on its final passage and publication, and it is so ordained.

**PRESENTED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.**

**PRESENTED ON SECOND READING AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018 BY A VOTE OF \_\_\_\_\_ AYES, \_\_\_\_\_ NAYS, \_\_\_\_\_ ABSTENTIONS, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF DECATUR, TEXAS.**

**APPROVED:**

\_\_\_\_\_  
Martin B. Woodruff, MAYOR

**ATTEST:**

\_\_\_\_\_  
Diane Cockrell, TRMC, CITY SECRETARY

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Mason L. Woodruff, CITY ATTORNEY



# CITY OF DECATUR, TEXAS

Development Services ★ 1601 S. State Street ★ Decatur, TX 76234 ★ (940) 393-0250 voice ★ (940) 626-4629 fax

Agenda Item 7

## STAFF REPORT

*July 3, 2018–Planning & Zoning Commission Meeting*

**TO:** Planning & Zoning Commissioners

**CASE:** RP2018-07

**FROM:** Dedra D. Ragland, AICP, Planning Director

**APPLICANT:** Aaron Cole, on behalf of West Walnut Investments LLC

**DATE:** May 24, 2018

**REQUEST:** Replat Application

### Case Notes:

Commission to hear and take public comment and take action to make a recommendation to City Council regarding Replat Application 2018-07—Mr. Aaron Cole's request, on behalf of West Walnut Investments, to final plat Lot 4R, Block 5, Crabb's Addition, being approximately 0.26 acres of land and a replat of part of Lots 3, 4, 5 and a portion of a 115' alley, Block 5, Crabb's Addition, to the City of Decatur, Wise County Texas and more commonly referred to as 302 W. Walnut St., Decatur, Texas. A complete legal description is included in the staff report.

### Legality:

This property can be legally platted in accordance with Section 212 of the *Texas Local Government Code*.

### Issues:

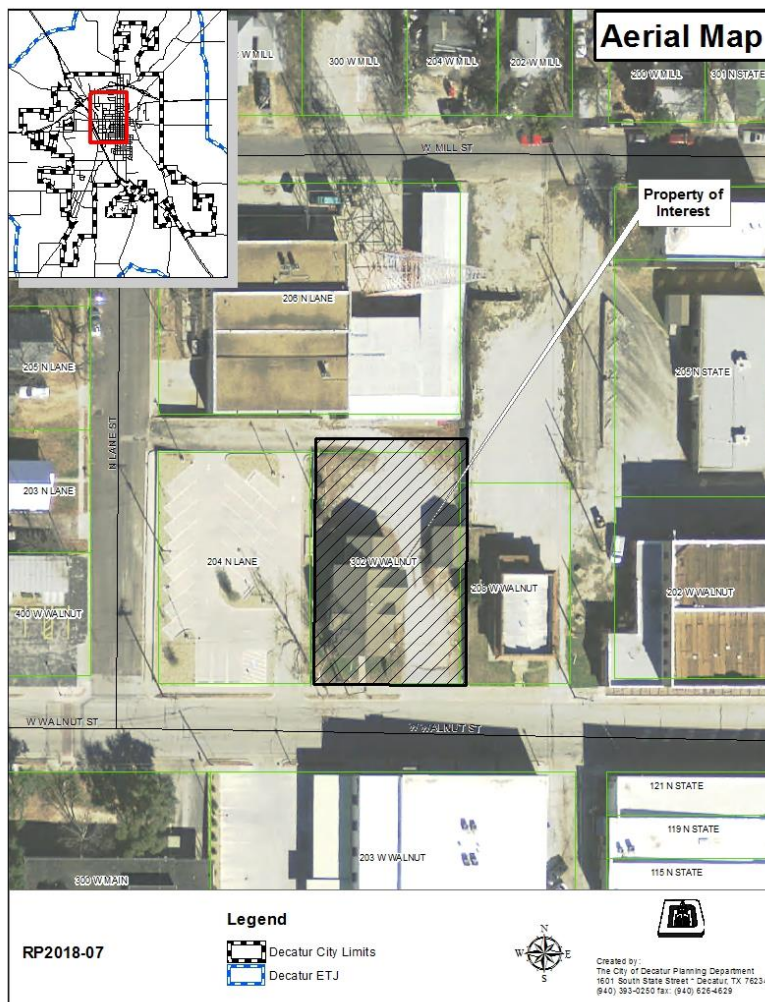
None.

### Recommendation:

The plat meets the minimum requirements of the City of Decatur's Zoning Ordinance, Subdivision Regulations and the Design Standards. Staff recommends approval.

### Attachments:

1. Replat Exhibit



## LOCATION MAP

ATTACHMENT 1  
Replat Exhibit



GENERAL NOTES:

1. ALL CORNERS ARE MARKED WITH CAPPED 1/2" IRON RODS STAMPED "KAZ" UNLESS OTHERWISE NOTED.
2. FLOOD STATEMENT: I HAVE REVIEWED THE F.E.M.A. FLOOD INSURANCE RATE MAP FOR THE CITY OF DECATUR, COMMUNITY NUMBER 480678 EFFECTIVE DATE 12-16-2011 AND THAT MAP INDICATES AS SCALED, THAT THIS PROPERTY IS WITHIN "NON-SHADED ZONE X" DEFINED AS "AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOOD (500 YEAR)" AS SHOWN ON PANEL 350 D OF SAID MAP.
3. THE PURPOSE OF THIS REPLAT IS TO CREATE 1 LOT FROM 3 PREVIOUSLY PLATTED LOTS AND TO ADD 7.5 LINEAR FEET OF ALLEY TO SAID LOT.
4. BEARINGS SHOWN HEREON ARE REFERENCED TO THE TEXAS COORDINATE SYSTEM OF 1983, NORTH CENTRAL ZONE (4202), AND ARE BASED ON THE NORTH AMERICAN DATUM OF 1983, 2011 ADJUSTMENT, SCALED AT 1.000179.
5. PLATTING TRIGGERS CURB, GUTTER AND SIDEWALK CONSTRUCTION.

CONTROL SOURCE:  
COORDINATE DATA AND BEARING SOURCE SHOWN HEREON IS BASED ON THE CITY CONTROL NETWORK. THIS DATA IS RELATIVE TO TEXAS COORDINATE SYSTEM NAD 83 NORTH CENTRAL TEXAS ZONE UTILIZING GPS MONUMENT "D107728" BEARING CONTROL COMBINED SCALE FACTOR IS N/A. ALL DISTANCES AND COORDINATES SHOWN ARE BASED ON FEET-U.S. DEFINITION.

**UTILITY EASEMENT RESTRICTION:**  
ANY PUBLIC UTILITY, INCLUDING THE CITY OF DECATUR, SHALL HAVE THE RIGHT TO REMOVE ALL OR PART OF ANY BUILDING, FENCES, TREES, SHRUBS, OTHER GROWTHS OR IMPROVEMENTS WHICH IN ANY WAY ENDANGER OR INTERFERE WITH THE CONSTRUCTION, MAINTENANCE, OR EFFICIENCY OF ITS RESPECTIVE SYSTEMS ON ANY OF THE EASEMENTS SHOWN ON THE PLAT; AND ANY PUBLIC UTILITY, INCLUDING THE CITY OF DECATUR, SHALL HAVE THE RIGHT AT ALL TIMES OF INGRESS AND EGRESS TO AND FROM AND UPON SAID EASEMENTS FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, INSPECTION, PATROLLING, MAINTAINING AND ADDING TO OR REMOVING ALL OR PART OF ITS RESPECTIVE SYSTEMS WITHOUT THE NECESSITY AT ANY TIME OF PROCURING THE PERMISSION OF ANYONE.

**PUBLIC OPEN SPACE EASEMENT RESTRICTION:**  
NO STRUCTURE, OBJECT OR PLANT OF ANY TYPE MAY OBSTRUCT VISION FROM A HEIGHT OF THIRTY (30) INCHES TO A HEIGHT OF TEN (10) FEET ABOVE THE TOP OF THE CURB, INCLUDING, BUT NOT LIMITED TO BUILDINGS, FENCES, WALKS, SIGNS, TREES, SHRUBS, CARS, TRUCKS, ETC., IN THE PUBLIC OPEN SPACE EASEMENT AS SHOWN ON THE PLAT.

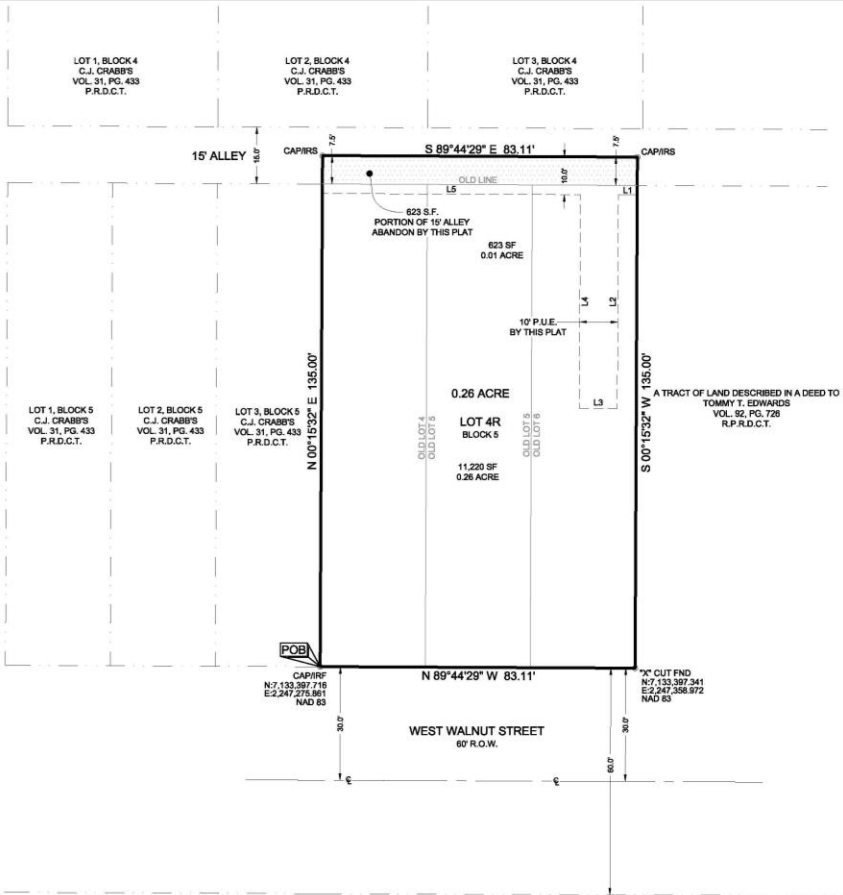
**DRAINAGE EASEMENT RESTRICTION:**  
NO CONSTRUCTION OR FILING, WITHOUT THE WRITTEN APPROVAL OF THE CITY OF DECATUR, SHALL BE ALLOWED WITHIN A DRAINAGE EASEMENT, AND THEN ONLY AFTER DETAILED ENGINEERING PLANS AND STUDIES SHOW THAT NO FLOODING WILL RESULT, THAT NO OBSTRUCTION TO THE NATURAL FLOW OF WATER WILL RESULT; AND SUBJECT TO ALL OWNERS OF THE PROPERTY AFFECTED BY SUCH CONSTRUCTION BECOMING A PARTY TO THE REQUEST. WHERE CONSTRUCTION IS PERMITTED, ALL FINISHED FLOOR ELEVATIONS SHALL BE A MINIMUM OF ONE (1) FOOT ABOVE THE ONE HUNDRED-YEAR FLOOD ELEVATION.

**FLOODWAY EASEMENT RESTRICTION:**  
NO CONSTRUCTION, WITHOUT THE WRITTEN APPROVAL OF THE CITY OF DECATUR, SHALL BE ALLOWED WITHIN A FLOODWAY EASEMENT, AND THEN ONLY AFTER DETAILED ENGINEERING PLANS AND STUDIES SHOW THAT NO FLOODING WILL RESULT, THAT NO OBSTRUCTION TO THE NATURAL FLOW OF WATER WILL RESULT; AND SUBJECT TO ALL OWNERS OF THE PROPERTY AFFECTED BY SUCH CONSTRUCTION BECOMING A PARTY TO THE REQUEST. WHERE CONSTRUCTION IS PERMITTED, ALL FINISHED FLOOR ELEVATIONS SHALL BE A MINIMUM OF ONE (1) FOOT ABOVE THE ONE HUNDRED-YEAR FLOOD ELEVATION.

**GREEN SPACE RESTRICTION:**  
GREEN SPACE AREAS ARE STRICTLY RESERVED AS LANDSCAPED, OPEN GREEN SPACES ONLY AND SHALL NEVER ALLOW INTRUSIONS OF ANY KIND THAT ARE NOT LANDSCAPE RELATED OR THAT IN ANY WAY LESSEN THE AMOUNT OF AREA OR LANDSCAPE MATERIAL WITHOUT THE EXPRESSED, WRITTEN PERMISSION OF THE CITY OF DECATUR.

**BUFFERING RESTRICTION:**  
BUFFERING AREAS ARE STRICTLY RESERVED AS LANDSCAPED, OPEN GREEN SPACES ONLY AND SHALL NEVER ALLOW INTRUSIONS OF ANY KIND THAT ARE NOT LANDSCAPE RELATED OR THAT IN ANY WAY LESSEN THE AMOUNT OF AREA OR LANDSCAPE MATERIAL WITHOUT THE EXPRESSED, WRITTEN PERMISSION OF THE CITY OF DECATUR.

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N 89°44'29" W	5.00'
L2	S 00°15'31" W	58.50'
L3	N 89°44'29" W	10.00'
L4	N 00°15'31" E	58.50'
L5	N 89°44'29" W	68.12'



**CERTIFICATE OF SURVEYOR**

STATE OF TEXAS  
COUNTY OF DENTON

I, KENNETH A. ZOLLINGER, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED FROM AND ACTUAL SURVEY MADE ON THE GROUND AND THAT THE MONUMENTS SHOWN HEREON WERE FOUND OR PLACED WITH CAPPED 1/2" IRON RODS STAMPED "KAZ" UNDER MY DIRECTION AND SUPERVISION IN ACCORDANCE WITH THE ORDINANCES OF THE CITY OF DECATUR, WISE COUNTY, TEXAS.

KENNETH A. ZOLLINGER R.P.L.S. # 5312 DATE \_\_\_\_\_

STATE OF TEXAS  
COUNTY OF DENTON

BEFORE ME, THE UNDERSIGNED AUTHORITY, ON THIS DAY PERSONALLY APPEARED KENNETH A. ZOLLINGER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN EXPRESSED AND IN THE CAPACITY THEREIN STATED.

GIVEN UNDER MY HAND AND SEAL OF THE OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

NOTARY PUBLIC, DENTON COUNTY, TEXAS.  
MY COMMISSION EXPIRES \_\_\_\_\_

**OWNER'S CERTIFICATION**

WHEREAS, WEST WALNUT INVESTMENTS, LTD., is the owner of all that certain lot, tract or parcel of land lying and being situated in the City of Decatur, Wise County, Texas and being all of Lots 4, 5 and 6 and part of an alley, Block 5, C.J. Crabb's Addition, an addition to the City of Decatur, Wise County, Texas according to the plat recorded in Volume 31, Page 433, Deed Records, Wise County, Texas and being more fully described by metes and bounds as follows;

BEGINNING at a capped iron rod found at the Southwest corner of said Lot 4, Block 5 and being in the North line of West Walnut Street;  
THENCE North 00 degrees 15 minutes 32 seconds East, 135.00 feet to a capped iron rod set stamped "KAZ" in the center of an alley;  
THENCE South 89 degrees 44 minutes 29 seconds East, 83.11 feet to a capped iron rod set stamped "KAZ";  
THENCE South 00 degrees 15 minutes 32 seconds West, 135.00 feet to an "X" cut found at the Southeast corner of said Lot 6 and being in the North line of said West Walnut Street;  
THENCE along said North line, North 89 degrees 44 minutes 29 seconds West, 83.11 feet to the PLACE OF BEGINNING and containing 0.26 of an acre of land more or less;

**OWNER'S DEDICATION**

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS:

THAT WEST WALNUT INVESTMENTS, LTD., DOES HEREBY ADOPT THIS REPLAT, DESIGNATING THE HEREIN DESCRIBED PROPERTY AS LOT 4R, BLOCK 5, C.J. CRABB'S ADDITION, AN ADDITION IN THE CITY OF DECATUR, WISE COUNTY, TEXAS AND DOES HEREBY DEDICATE TO PUBLIC USE FOREVER ALL STREETS, ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS, AND PUBLIC PLACES THEREON SHOWN FOR THE PURPOSE AND CONSIDERATION THEREIN EXPRESSED. PLATTING TRIGGERS CURB, GUTTER AND SIDEWALK CONSTRUCTION.

WEST WALNUT INVESTMENTS, LTD.

NAME (OWNER) \_\_\_\_\_ DATE \_\_\_\_\_

THE STATE OF \_\_\_\_\_ §

THE COUNTY OF \_\_\_\_\_ §

BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, ON THIS DAY PERSONALLY APPEARED \_\_\_\_\_ KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATIONS THEREIN.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017.

NOTARY PUBLIC IN AND FOR THE STATE OF \_\_\_\_\_, \_\_\_\_\_ COUNTY

MY COMMISSION EXPIRES ON \_\_\_\_\_

THE STATE OF \_\_\_\_\_ §

THE COUNTY OF \_\_\_\_\_ §

**INDEMNITY AGREEMENT**

IN CONNECTION WITH THE PLAT TITLED REPLAT OF LOT 4R, BLOCK 5, C.J. CRABB'S ADDITION TO THE CITY OF DECATUR, TEXAS, I, \_\_\_\_\_, BEING THE OWNER OF THE ABOVE DESCRIBED PROPERTY, DO HEREBY AGREE TO INDEMNIFY AND HOLD HARMLESS THE CITY OF DECATUR, TEXAS, FROM ANY AND ALL JUDGMENTS, CLAIMS, DEMANDS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER OCCASIONED BY OR ARISING OUT OF THE INADEQUATE OR IMPROPER SURFACE DRAINAGE OF SAID PARCEL OF LAND, FOR A PERIOD OF FIVE (5) YEARS FROM THE DATE OF APPROVAL BY THE CITY COUNCIL OF DECATUR, TEXAS, OF THE PLAT OF SAID REPLAT OF LOT 4R, BLOCK 5, C.J. CRABB'S ADDITION. THIS AGREEMENT IS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 606 OF THE SUBDIVISION ORDINANCE OF THE CITY OF DECATUR, TEXAS, ADOPTED AS OF MAY 8 TH, 2000.

EXECUTED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018.

OWNER \_\_\_\_\_

LIEN HOLDER/MORTGAGEE \_\_\_\_\_

THE STATE OF \_\_\_\_\_ §

THE COUNTY OF \_\_\_\_\_ §

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018

BY \_\_\_\_\_

NOTARY PUBLIC, STATE OF \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

NOTARY'S PRINTED NAME: \_\_\_\_\_

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, THIS PLAT WAS DULY APPROVED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF DECATUR, TEXAS.

BY: \_\_\_\_\_

CHAIRMAN

ATTEST: \_\_\_\_\_

PLANNING DIRECTOR

THE CITY COUNCIL OF DECATUR, TEXAS, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2018, VOTED AFFIRMATIVELY TO ADOPT THIS PLAT AND APPROVE IT FOR FILING OF RECORD.

BY: \_\_\_\_\_

MAYOR

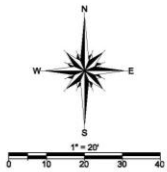
ATTEST: \_\_\_\_\_

CITY SECRETARY

**FINAL PLAT  
OF  
LOT 4R, BLOCK 5  
C.J. CRABB'S ADDITION**

BEING 0.26 OF AN ACRE SITUATED IN THE CITY OF DECATUR, WISE COUNTY, TEXAS AND BEING A REPLAT OF ALL OF LOTS 4 - 6, AND TO THE CENTERLINE OF A 15' ALLEY, BLOCK 5, C.J. CRABB'S ADDITION, OF THE CITY OF DECATUR, WISE COUNTY, TEXAS

**LEGEND**  
NAD 83 = NORTH AMERICAN DATUM 1983  
P.O.S.E. = PUBLIC OPEN SPACE EASEMENT  
POB = POINT OF BEGINNING  
CAP/IRF = CAPPED IRON ROD FOUND  
CAP/IRS = CAPPED IRON ROD SET  
P.U.E. = PUBLIC UTILITY EASEMENT  
R.O.W. = RIGHT-OF-WAY  
P.R.W.C.T. = PLAT RECORDS WISE COUNTY TEXAS  
D.R.W.C.T. = DEED RECORDS WISE COUNTY TEXAS  
\_\_\_\_\_ = R.O.W. CENTERLINE



**SURVEYOR:**  
KAZ SURVEYING, INC.  
1720 WESTMINSTER STREET  
DENTON, TX 76205  
PHONE: (940) 382-3446  
TBPLS FIRM #10002100

**OWNER:**  
WEST WALNUT INVESTMENTS, LTD.  
525 LOOP 288, #105  
SUITE 301  
DENTON, TX 76205  
PHONE: (940) 382-6003

**DEVELOPER:**  
LINKS CONSTRUCTION  
525 S. LOOP 288, SUITE 105  
DENTON, TX 76205  
PHONE: (940) 566-5465

**ENGINEER:**  
HOMEYER ENGINEERING, INC.  
P.O. BOX 294527  
LEWISVILLE, TX 75057  
PHONE: (972) 906-9985  
shomeyer@he.us.com  
TBPE FIRM #F-8440

